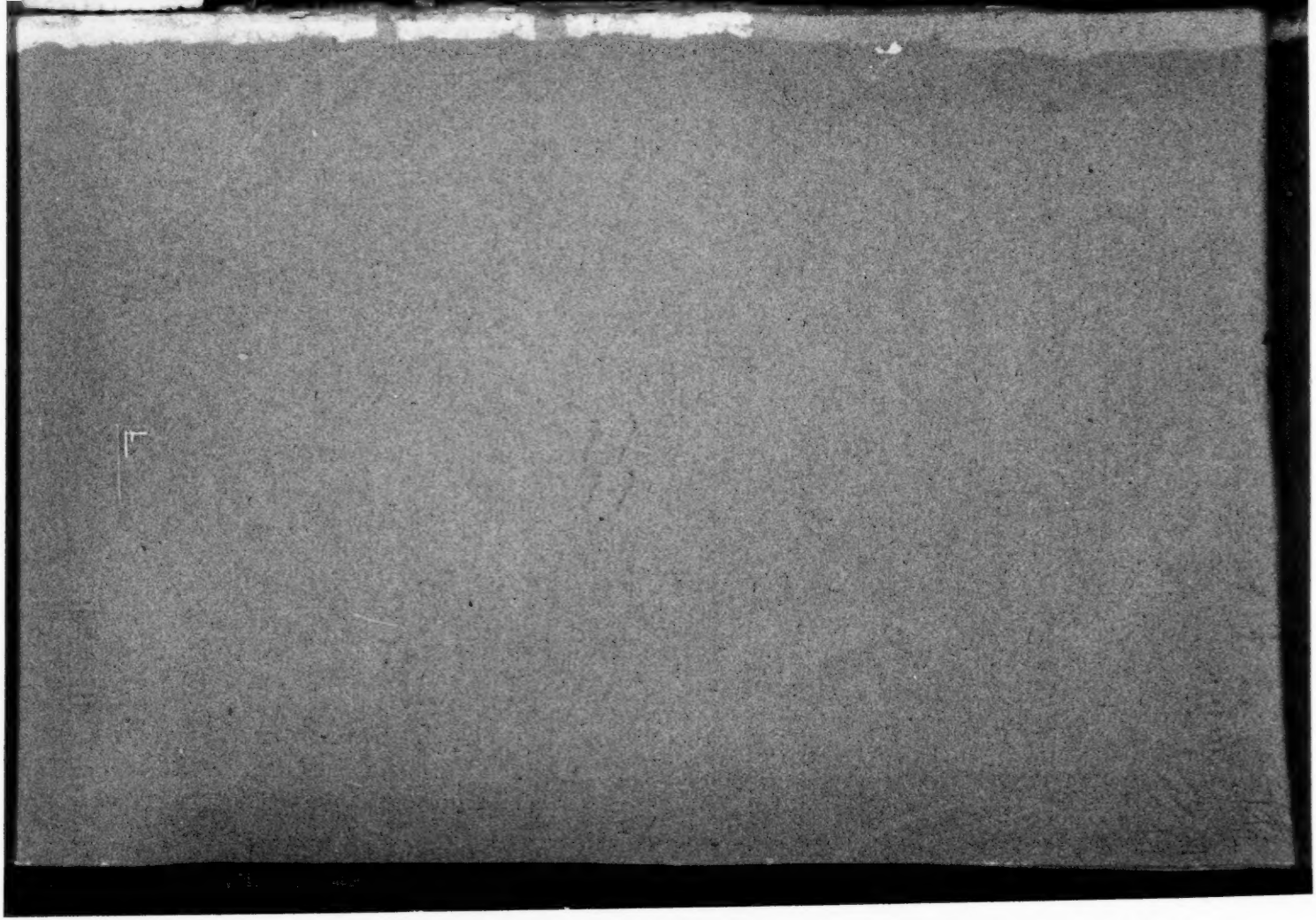

IN THE

United States Circuit Court of Appeals

FOR THE SECOND CIRCUIT.

No. .....

MARTIN LAWLOR ET AL.,

Plaintiffs in Error,
(Defendants Below.)

vs.

D. E. LOEWE ET AL.,

Defendants in Error.
(Plaintiffs Below.)

TRANSCRIPT OF RECORD.

Error to the District Court of the United States for the District of Connecticut.

VOL. III—Pages 481 to 960.

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THE TOLEDO BRIEF & RECORD COMPANY,
PRINTERS.

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a conclusion of the witness and not proper evidence of the fact, and hearsay, we object to it. 1921

The Court:

Objection overruled.

Mr. Mulholland:

Exception.

Mr. Merritt:

"An employee of mine, who practically acted as the go-between between Mr. Lynch and, according to his statement, other officers of the Hatters' Union.

"(Q.) Do you mean Mr. Birch brought you messages from the union? (A.) Brought me messages and asked for answers. 1922

"(Q.) Did he appear to be a union man himself? (A.) Yes.

"(Q.) Do you recall any messages that Mr Birch brought you concerning this matter? (A.) Yes.

"(Q.) Give the the substance of your recollections."

Mr. Mulholland:

Objection on the ground that it is hearsay.

The Court:

Go on. 1923

Mr. Mulholland:

Exception.

Mr. Merritt:

"(A.) On one or more occasions he urged me to allow him to report to the officers that I would cease using Loewe's hats. When I refused that on at least one occasion, or probably more, he asked me to at least let him say to them that I would reduce the quantity that I was using as few as possible to meet my demands. Among other things he plead that he wanted to square himself with the officers as doing all he could in the matter.

"(Q.) Did you ever receive any intimations from any of these people what would be the consequence if you failed to comply with this request?" 1924

Mr. Mulholland:

That is objected to. The question should have been as to what was said and done.

Mr. Davenport:

The answer is what was said.

Mr. Mulholland:

Then I object to the answer as hearsay.

1925 The Court:

Oh yes, having told who Mr. Birch was I think that it is admissible. The jury will give it such weight as they deem proper.

Mr. Mulholland:

Save an exception.

Mr. Merritt:

"Birch said on a number of occasions that it would be to my interest to cease using Loewe's goods, that it was for my sake, as well as his own, that he wanted me to take that stand.

1926 "(Q.) Where is Birch? (A.) I cannot tell you. He died a year or two ago.

"(Q.) Were you doing any manufacturing at this time? (A.) At the time referred to, yes."

I won't claim the balance of that, your Honor.

Mr. Mulholland:

We will pass the cross examination.

Mr. Merritt:

"WILLIAM C. HESSE,

a witness called by the plaintiff."

1927 "By Mr. Merritt:

"(Q.) Will you give your age? (A.) 42.

"(Q.) You are engaged in the business of selling hats, buying and selling hats, as a wholesaler in Philadelphia, are you not? (A.) Yes, sir.

"(Q.) With the concern of J. J. Seeds & Company? (A.) Yes, sir."

Mr. Merritt:

"(Q.) How long have you been connected with that concern? (A.) 29 years.

"(Q.) Are you the buyer? (A.) Yes, sir.

1928 "(Q.) Did that concern ever deal with D. E. Loewe & Company? (A.) Yes.

"(Q.) Can you state in a general way through what years it dealt with D. E. Loewe & Company? (A.) We dealt with D. E. Loewe & Company years ago, and then stopped. This was long before Loewe occupied the position that he does today. Probably fifteen or eighteen years ago, but the business has been rather continuous for, I should say, six, seven or eight years; probably longer; I do not just know.

"(Q.) Were the goods you purchased from Loewe satisfactory or unsatisfactory? (A.) Entirely satisfactory.

"(Q.) Can you give the general trend and amount of your purchases from 1902 to 1904? (A.) I cannot, because I did not bring the records. I understood that all of that data was in your possession.

"(Q.) Do you recall any falling off in the amount of the business? (A.) Yes, there was a falling off in the business, and I should judge that drop took place about 1902 or 1903.

"(Q.) Can you state whether or not you ever received any visits from any one asking you not to deal with D. E. Loewe & Company? (A.) We did receive a visit from a committee.

"(Q.) Do you know who the parties were? (A.) I do not know their names, but it was a small committee, I think two or three men, and, as I understood it, they were connected with the hatters' union. I could not remember them because I never knew any of those men personally.

"(Q.) Did they so represent themselves? (A.) Yes.

"(Q.) Do you recall any conversation that took place? (A.) No. I can give you the substance of it—that is, what their request was.

"(Q.) What was it? A. It has been some time ago.

"(Q.) What was it?"

Mr. Mulholland:

Objection. This can be admitted only upon the ground of agency, and I think the rule in conspiracy cases is that before you can introduce the statements of an agent in the conspiracy, even when the statements are made in furtherance of the conspiracy, you must first establish the agency.

The Court:

I think this would be admissible as showing the business affairs between this plaintiff and the deponent.

Mr. Mulholland:

Objected to further as hearsay. Save an exception.

Mr. Merritt:

"(A.) They wanted us to use our influence to get Loewe to adopt the union label, or wanted us to stop using Loewe's goods.

"(Q.) You testified that you believe it was 1902 to 1903 that the amount of your purchases from Loewe fell off substantially. I will ask you to give me the causes of that de-

crease, as far as you recall them? (A.) In order to meet, or rather to be in the position to supply merchandise to our customers, we had to put in another line of soft hats, in similar grades.

"(Q.) Was that other line union or non-union? (A.) Union.

"(Q.) If you will continue. (A.) And the reason that we put in the other line was because many of our customers would not buy Loewe's hats."

Mr. Mulholland:

The next sentence we ask to have stricken out, if the court please.

The Court:

No, you may read it if you like as an explanation on the part of the deponent as to the business transactions.

Mr. Mulholland:

Save an exception.

Mr. Merritt:

"Whether they had been visited by anybody connected with the Hatters' Association or not I do not know, but we simply had to have another line of goods to take advantage of such business as might be offered us.

"(Q.) Was there any other reason that you recall now why these purchases decreased? (A.) Yes, there was a very strong reason why they decreased. We could not have orders filled.

"(Q.) What do you mean by you could not have your orders filled? (A.) In placing orders with Loewe at the time of his trouble, it was rather indefinite as to when we would get the goods.

"(Q.) He was unable to deliver you the goods promptly? (A.) That was it. That was one of the reasons; so that I might say there were two reasons why we had to cut down our business with Loewe."

Mr. Mulholland:

Pass the cross examination.

"LOUIS EDELSTEIN,

a witness called by the plaintiff."

"By Mr. Merritt:

"(Q.) Give your age, please? (A.) 42.

"(Q.) I understand you are engaged in the business of buying and selling hats as a wholesaler in the city of Philadelphia? (A.) Yes, sir. 1937

"(Q.) And the name of the firm is? (A.) Wernick, Edelstein & Company.

"(Q.) How long have you been connected with that concern? (A.) Sixteen years.

"(Q.) In what capacity? (A.) Selling hats, buying and selling hats.

"(Q.) During what period of these sixteen years, if any, did you purchase hats of the plaintiff, D. E. Loewe & Company? (A.) I can only give you just an approximation. Some where near 1895 we started, just about 1895, 1895 or 1896. 1938

"(Q.) Were you ever visited by any one asking you not to deal with D. E. Loewe & Company? (A.) Yes, sir.

"(Q.) Can you tell us the date of that visit, within a few months? (A.) It was just at the time of the trouble at the factory. It was during the time of the trouble.

"(Q.) What trouble do you refer to? (A.) I refer to the strike.

"(Q.) How many people visited you at that time? (A.) Two. 1939

"(Q.) Is that the only visit you recall? (A.) They were there twice, but once I was out. They saw my partner there, but once I was in the store at that time, and they saw me.

"(Q.) Give us the substance of their conversation, to the best of your recollection."

Mr. Mulholland:

That is objected to as hearsay.

The Court:

The same ruling.

Mr. Mulholland:

Exception. 1940

Mr. Merritt:

"(A.) They asked me to write Mr. Loewe to unionize the factory, or else I would stop buying goods from him.

"(Q.) How did you reply to them? (A.) I did not give them any satisfaction whatever.

"(Q.) You neither refused or agreed? (A.) No, sir.

"(Q.) What impression did that make on you, that visit? (A.) I thought I would not pay any attention to them.

1941 "(Q.) You were disturbed?"

Mr. Mulholland:

The answer is objected to.

The Court:

Let me see what the answer is. (After examining book.) You may read it if you desire.

Mr. Mulholland:

Exception.

Mr. Merritt:

"When I said that I thought I would not pay any attention to them, I mean to say that I intended to use my judgment 1942 whether I shall continue to buy or not. As far as being disturbed, we were disturbed to the extent that we did not continue to buy goods for awhile. I thought, during the time these parties visited us it would be best not to buy goods for a time, and I understood that they were to publish our name, or something of that order, in some of their local unions. So I thought it best to hold back, and not to purchase any goods for a time."

Mr. Mulholland:

Pass the cross examination.

Mr. Merritt:

1943 I will read the deposition of Mr. Patrick Lynch, the very man we were discussing a few minutes ago.

Mr. Mulholland:

That is objected to. There is a motion filed asking that that deposition be suppressed, and we would like to be heard on it.

The Court:

Well, we will excuse the jury until ten o'clock tomorrow morning.

Friday, September 6, 1912.
Morning Session, 10:00 A. M.

1944 Mr. Merritt:

Your Honor, I wish to read a few questions from the cross examination of Mr. Keen—one of the depositions read yesterday:

"Q. And, if I understand you correctly, the falling off of your purchases from Loewe & Co. was due to a falling off in the demand of goods by customers, and not on account of any initiative that you took in discouraging the sale of Loewe's goods. Is that correct? A. We did not discourage them to take them. The reason of the falling of was on account of

Loewe's trouble, not my trouble, Loewe's trouble. It was not the merit of the goods. The merit was there." 1949

And then reading further on page 18 of this cross examination:

"Q. Let me see if I cannot gather together the threads of this testimony, and see if counsel and witness can understand each other. Please state whether or not this is what you mean to state? 'We were both wholesale and retail dealer in hats. I cannot remember that the retail trade in Loewe's hats fell off at all during this trouble. I do remember that purchases from other retailers which we sell at wholesale did fall off.' Is that correct? A. Their trade must have fallen off, because they were not getting goods from us in Loewe's hats." 1949

"Q. Now, coming back to the sales that you made to retailers by wholesale; did you discourage any of those persons that you sold to by wholesale from purchasing Loewe's hats, or did the sales fall off—the wholesale sales by you, in consequence of actions other than your own? A. We had no reason to discourage. The trade fell off. There are the figures.

"Q. Was it due to lack of demand for the goods?"

Mr. Beach:

The answer is objected to here as a statement on the part of the witness of an opinion as to what the reason was. 1947

The Court:

Well, the court is inclined to think that that was responsive. You can do as you choose about reading the rest of the answer.

Mr. Mulholland:

Save an exception.

The Court:

Yes, if it is read.

Mr. Merritt:

"Q. Was it due to lack of demand for the goods? A. I don't think it was lack of demand for the goods. Fear of keeping them; fear of the retailer." 1948

The Court:

That is merely the opinion of the witness.

Mr. Merritt:

I will now read from the deposition of

1949

PATRICK LYNCH.

Mr. Mulholland:

I ask the court for a ruling upon our motion to suppress.

The Court:

I ruled on that—Patrick Lynch, last night.

Mr. Mulholland:

Then we will save an exception to the ruling of the court on our motion to suppress deposition of Patrick Lynch.

The Court:

That is; I overruled the motion to suppress.

1950 Mr. Merritt:

"Q. What is your business? A. I am a hatter; a hat finisher.

"Q. In what factory? A. At the present time I am not working in a factory."

Mr. Mulholland:

We object to the next statement appearing in the record, and save an exception if it is admitted. (Referring to the statement of Mr. Shoyer.)

Mr. Merritt:

I will omit it.

1951 "Q. Are you actively engaged as a hat finisher? A. Not at the present time.

"Q. What is your occupation? A. President of the organization.

"Q. What organization?"

Mr. Mulholland:

I object to the answer.

The Court:

Admitted.

Mr. Mulholland:

Exception.

1952 Mr. Merritt:

"A. I decline to answer because it might tend to incriminate me and take whatever little property I have away from me; anything I might own."

Mr. Mulholland:

I insist on the other being read.

Mr. Merritt:

I will go back. I think you are right. After the first two or three questions: "Mr. Shoyer, as attorney for the witness, Patrick Lynch, who has been sworn and is being ex-

amined, inquires of Mr. Merritt what is the purpose of the examination of this witness and what he proposes to prove by him."

The Court:

Is that a question put by one attorney who is attorney for the witness to you as attorney for the plaintiff?

Mr. Merritt:

Yes, Your Honor. "Mr. Meritt: I propose to prove that this witness was at various times set forth in the complaint, a member of a hat finishers' union here in Philadelphia, which is affiliated with the United Hatters of North America; and furthermore at such time he was an officer of said Hat Finishers' Union; that individually and as said officer and member of a Hat Finishers' Union he became a member, or part of the combination set forth in the complaint, and has been active in furthering and carrying out the purposes of said combination.

"And I propose further to prove through this witness, any action taken by said Hat Finishers' Union of Philadephia in connection with the combination set forth in the complaint; and to this end introduce evidence from any records of this local Hat Finishers' Union in the custody of this witness showing what action has been taken by said local association in the furtherance of said combination set forth in the complaint, and what action has been taken by this witness as an officer or member of said association, or individually.

"Mr. Shoyer advises the witness that in his opinion he is entitled to claim his privilege as a witness on the ground that any further answers which he may make to question propounded by Mr. Merritt is support of the offer of proof just stated, may tend to incriminate him, and may further tend to deprive him of property without due process of law.

"Are you actively engaged as a hat finisher? A. Not at the present time.

"Q. What is your occupation? A. President of the Organization.

"Q. What organization?"

Mr. Mulholland:

I object to the answer.

The Court:

Admitted.

Mr. Mulholland:

Exception.

957 Mr. Merritt:

"A. I decline to answer because it might tend to incriminate me, and take whatever little property I have away from me; anything I might own.

"Mr. Taylor:—

The Court:

Mr. Taylor represented the defendants?

Mr. Merritt:

Mr. Taylor represented the defendants at this examination.

"As counsel for the defendants, desires to state, and have
958 it placed upon the record at this point of the proceedings, that the witness who has just declined to answer on the ground that his answer may tend to incriminate him and deprive him of his little property, is beyond the control of the defendants, and that the defendants in this cause disclaim any responsibility for the witnesses exercising his privilege.

"By Mr. Merritt:

"Q. How long have you been a hat finisher? A. I have been working at that finishing since 1865—no, 1868.

"Q. In what factory did you work last? A. Mr. Tichenor's.

959 "Q. Was that a union factory? A. Yes.

"Q. That is, in the sense that it only employed union finishers? A. A union factory, yes, sir.

"Q. And you worked as a finisher in that factory? A. I said so just a minute ago.

"Q. What office do you hold in this organization to which you refer? A. I decline to answer.

"Mr. Taylor at this stage of the proceedings desires to place on the record the same disclaimer that he has heretofore done in relation to the declination of this witness to answer a previous question; and furthermore desires that the
960 position of the defendant shall be understood to be identical with the previous statement made by their counsel in reference to the previous answer, as far as it may affect any subsequent questions which the witness declines to answer.

"By Mr. Merritt:

"Q. This office you hold is the only business that you are engaged in, I understand? A. I decline to answer any such question. It might tend to incriminate me."

Mr. Mulholland:

I would like to save an objection to the last answer, if the court please, and exception.

Mr. Merritt:

"Q. Am I to understand, in each instance where you refuse to answer questions, that it is for the reasons you have originally stated?"

Mr. Mulholland:

Objection. Exception.

Mr. Merritt:

"A. Yes, sir.

"Q. And those reasons only? A. Yes, sir.

"Q. Are you a salaried officer of this organiaztion?"

Mr. Mulholland:

Objection. Exception.

Mr. Merritt:

"A. I respectfully decline to answer that question—any questions of that kind.

"Q. What office is it."

Mr. Mulholland:

Objection. Exception.

Mr. Merritt:

"I respectfully decline to answer.

"Q. How long have you held this office."

Mr. Mulholland:

May we have upon the record our objection and exception to all questions which the witness answers in this way?

The Court:

Certainly, without repeating them.

The Court:

The claim was made in the presence of counsel for defendants and in presence of the witness that he was an officer of a hatters' union; and this proceeding is to be brought forward here as nearly as possible as if the witness was right here on the stand testifying, so that the jury may have a view of the evidence as far as it is possible to have it; and its effect would be the same as if he was testifying here on the stand; all that counsel said on either side would be in the presence of the jury—so it is right here in the presence of the jury the witness testified without objection that he was President—I forget the language.

Mr. Merritt:

"Of the organization."

965 The Court:

"Of the organization," and then declined to state what organization; and these questions and the discussion of counsel are all reproduced here from this record when the witness declined to answer; and the motion to suppress this deposition was overruled and exception saved. Now these various questions and answers you ask should be understood to be every one of them taken subject to your objection and exception.

Mr. Merritt:

I may repeat a question without remembering where I left off.

966 "Q. Are you a salaried officer of this organization? A. I respectfully decline to answer that question—any questions of that kind.

"Q. What office is it? A. I respectfully decline to answer.

"Q. How long have you held this office? A. I decline to answer.

"Q. You are a member of the local Hat Finishers' Union here in Philadelphia? A. Yes, sir.

"Q. How long have you been a member? A. I joined the organization as an apprentice in 1868.

967 "Q. You have been a member continuously ever since? A. Not of this particular organization, no, sir.

"Q. How long have you been a member of the present local Hat Finishers' Union? A. I would have to go back and look over the records to see what time it happened. I worked in Orange, N. J., and in Baltimore. At that time I was not a member of this local organization. I would have to go back to see when I hunted up work in some of these places.

"Q. But at those time you were always a member of some hat finishers' union affiliated with the United Hatters of North America? A. I always was a member of the United

968 Hatters of North America at all times.

"Q. Can you give me any idea how long you have been a member of the local hat finishers' union here? A. I joined as an apprentice in 1868. I should judge I was out of the district—out of this local organization—possibly about a year and a half, or something of that order. Possibly not that long. It was not any longer than that.

"Q. Have you been a member of this local union here for ten years past continuously? A. Yes, sir, I can say that honestly, ten years.

"Q. And how long have you been an officer? A. I de- 196
cline to answer that.

"Q. Did you ever meet a gentleman in this city here by the name of Mr. George Wells? A. George Wells? Yes.

"Q. Do you know his business? A. Yes, sir.

"Q. What is it? A. He keeps a hat store.

"Q. Did you ever call on Mr. Wells? A. Yes, sir.

"Q. Did you ever call on Mr. Welles in connection with D. E. Loewe & Co. A. I decline to answer that. I called on Mr. Wells once. I have called on Mr. Wells.

"Q. You were subpoenaed, were you not to bring cer- 197
tain records here? I want to know if you have brought the records. I decline to answer that, I have no records anyhow. I never kept any. I have not anything to do with the books of the organization. I have no books.

"Q. Who keeps the books and has the custody of them. I decline to answer.

"Q. What officer keeps the minute books? A. I decline to answer. I do not.

"Q. What officer has the custody of the minute books? A. I decline to answer, because I have not any. I never had anything to do with them.

"Q. You have not the custody of the minute books? A. 197
No, sir.

"Q. And you have not control over them, I understand? A. Never had any control over them.

"Q. Who is the present President of your organization? A. I decline to answer that.

"Q. Who is the present Secretary? A. I decline to answer.

"Q. Do you know approximately how many members make up the organization called the United Hatters of North America? A. I decline to answer that.

"Q. Is the local Hat Finishers Union here, of which 197
you are a member, affiliated with any Council here in Philadelphia? A. I decline to answer that.

"Q. Do you conduct any correspondence with John Moffitt, the President of the United Hatters of North America? A. I certainly decline to answer.

"Q. Are you acquainted with Mr. John Moffitt? A. I decline to answer.

"Q. Were you ever served with a complaint of this action? A. Yes, sir; I got a paper at one time from Con-

973 necticut when this case first started. I imagine that is what it was.

"Counsel for defendant admit the bare fact, reserving all rights created by the plea of jurisdiction filed in the Superior Court of Fairfield County, State of Connecticut, and the exceptions to the decision of the court thereon, that this particular defendant received by due course of mail a copy of writ and complaint in said state court action in the Superior Court of Fairfield County between the same parties.

"Q. Did you ever authorize any attorneys to appear for you in this action? A. I decline to answer that question.

974 "Q. What notice, if any, did you take of the fact that that complaint was received by you through the mails? A. I decline to answer.

"Q. You are unwilling to state whether you employed any counsel to represent you in the matter? A. I decline to answer the question.

"Q. Is there a Labor Council here in Philadelphia? A. I decline to answer.

"Q. Is there a local Hat Makers Union? A. I decline to answer.

975 "Q. How many members are there in your Local Hat Finishers' Union? A. I decline to answer that. I do not keep the books. I have not any connection with the books. I said that before.

"Q. Do you attend the meetings of the Local Hat Finishers' Union? A. I decline to answer that question.

"Q. Did the local Hat Finishers' Union of this city ever take any action boycotting or in any way endeavoring to decrease the sales of the products of D. E. Loewe & Co.? A. I certainly decline to answer that question.

"Q. Did you ever individually take any action endeavoring to unionize the factory of D. E. Loewe & Co., or to boycott its product, or to interfere with the sale of its goods? A. I decline to answer that question.

976 "Q. Did you prior to 1904 ever take any action for the purposes of unionizing the factory of D. E. Loewe & Co., or of boycotting its product, or decreasing the sales of its produce? A. I decline to answer that question.

"Q. Did the local Hat Finishers' Union of which you were a member, take any action prior to 1904 for the purpose of boycotting the factory of D. E. Loewe & Co., or decreasing the sale of its product? A. I decline to answer that question."

Have you any desire to have Mr. Shoyer's statement read there?

Mr. Davenport:

Read it.

Mr. Merritt:

"Mr. Shoyer: I waive any objection as to the materiality or immateriality or form or relevancy or irrelevancy, or anything of that kind. It is simply upon the broad principles of the reasons assigned in my opening remarks. I will raise, on behalf of the witness, no objections to any and all questions propounded upon any other ground than that they are within the limit of the privilege which he has claimed in answer to the question where he originally stated and claimed his privilege; and I will raise no objection on the question that the witness was not properly subpoenaed. This I do on account of my stipulation with counsel for the plaintiff at the last hearing, when a continuance was granted upon my request for these witnesses.

"Q. Do I understand that the reasons why you refuse to answer each of the questions which you have refused to answer are the reasons stated in your first declination, namely, on the ground that the answer would tend to incriminate you and deprive you of property without due process of law? A. Yes, sir."

Now the deposition of

JOHN J. FORD,

taken at the same time and place.

The Court:

As to that the motion of the defendants to expunge is overruled.

Mr. Mulholland:

To which we note exception.

Mr. Merritt:

"By Mr. Merritt:

"Q. What is your business? A. A Hatter.

"Q. A Hat maker or a hat finisher? A. A Hat finisher.

"Q. How long have you been engaged in that business? A. Since 1889, I believe. I am correct in saying 1889.

"Q. What factory are you working in now? A. At the present time I am not occupied—that is especially so. I am not occupied at the present time.

1981 "Q. That is you are not engaged in finishing hats? A. No, sir.

"Q. How long since you have been actively engaged in finishing hats? A. How long is it?

"Q. Yes? A. I guess about two weeks ago.

"Mr. Shroyer as attorney for the witness John J. Ford, who has been sworn and is being examined, inquires of Mr. Merritt what is the purpose of the examination of this witness, and what he proposes to prove by him."

The Court:

Before you proceed further, I wish to inquire about who
1982 Mr. Shroyer is. Did he have any connection with any of these cases except to represent these witnesses?

Mr. Merritt:

No, Your Honor.

The Court:

And was the testimony of these witnesses taken at the same time and at the same place?

Mr. Merritt:

Yes, Your Honor.

"Mr. Merritt:

"I propose to prove that this witness was at various times
1983 set forth in the complaint, a member of the Hat Finishers' Union here in Philadelphia, which is affiliated with the United Hatters of North America.

"And furthermore at such time he was an officer of said Hat Finishers' Union; that individually and as said officer and member of the Hat Finishers' Union he became a member or part of the combination set forth in the complaint, and has been active in furthering and carrying out the purposes of said combination.

"And I propose further to prove through this witness any action taken by said Hat Finishers' Union of Philadelphia
1984 in connection with the combination set forth in the complaint; and to this end introduce evidence from any records of this Local Hat Finshers' Union in the custody of this witness, showing what action has been taken by said Local Association in the furtherance of said combination set forth in the complaint, and what action has been taken by this witness as an officer or member of said association, or individually.

"Mr. Shoyer advises the witness that in his opinion he is entitled to claim his privilege as a witness on the ground that any further answers which he may make to questions propounded by Mr. Merritt in support of the offer of proof

just stated may tend to incriminate him and may further tend to deprive him of property without due process of law. 1985

"By Mr. Merritt:

"Q. Where did you last work as a hat finisher? A. Sigler Hat Company, Seventh & Snyder Avenue.

"Q. Was that known as a union factory at that time? A. So I believe.

"Q. As far as you know, was every maker and finisher in that factory a member of either the finishers union or the makers' union? A. I decline to answer that on the ground that it would tend to incriminate me and take from me my property." 1986

Mr. Mulholland:

That answer is objected to. May we have it upon the record?

The Court:

Subject to your exception.

Mr. Merritt:

"Mr. Taylor, as counsel for defendant, desires to state and have it placed upon the record at this point of the proceedings that the witness who has just declined to answer on the ground that his answer may tend to incriminate him and deprive him of his little property is beyond the control of the defendants, and that the defendants in this cause disclaim any responsibility for the witness exercising his privilege. 1987

"By Mr. Merritt:

"Q. Are you a member of the local Hat Finishers' Union? A. Yes, sir.

"Q. What is the number of that union? A. I decline to answer.

"Q. I want the exact title of that union? A. I decline to answer.

"Mr. Taylor repeats the disclaimer in reference to the declination to answer the previous question, and hereby states that he makes the same disclaimer in reference to any declination by the witness to answer any future questions on the ground that they will tend to incriminate him or deprive him of property without due process of law, or any other exercise of the witness's personal privilege. 1988

"By Mr. Merritt:

"Q. Are you an officer of the local Hat Finishers' Union in Philadelphia? A. I decline to answer.

"Q. What is that book you have?

1989 "Mr. Shoyer here states that in accordance with his stipulation with Mr. Merritt at the previous meeting waiving any and all objections that might be made to the manner of service of the subpoena duces tecum, he has produced the witness who has with him the minute book of local number 19, Philadelphia Hat Finishers' Union, and Mr. Shoyer advises the witness that in his opinion that the privilege extends not only to the answers to questions propounded to him personally, but to the examination by counsel for the plaintiff of the minute book, or any part of the records therein contained.

"By Mr. Merritt:

1990 "Have you the custody of any of the record books or minutes or documents of the local Hat Finishers' Union, No. 19, of Philadelphia? A. Records, yes.

"Q. What kind of records? A. I think I am proper there to decline to answer that question.

"Q. Have you the custody of any minute books of that organization? A. I decline to answer.

"Q. Have you the correspondence of said organization in your custody? A. No, sir.

Q. Who has the custody of the correspondence of the said organization? A. I decline to answer.

1991 "Q. Do I understand that your declination to answer these questions which I have already put to you, and to any questions that I may hereafter ask you, are the same as set forth in your first refusal to answer my questions? A. Yes, sir.

"Q. Namely, on the ground that it would tend to incriminate you and deprive you of property without due process of law? A. Yes, sir.

"Q. Do you receive any salary from the local Hat Finisher's Union of Philadelphia? A. I decline to answer.

"Q. Do you know how many members, approximately, make up the United Hatters of North America? A. No, sir.

1992 "Q. Do you know how many members, approximately, make up the local Hat Finishers' Union, No. 19, of Philadelphia? A. No, sir.

"Q. Are there more than five hundred? A. I decline to answer.

"Q. Did the local Hat Finishers' Union, No. 19, of Philadelphia, take any action prior to the year 1904, for the purpose of unionizing the factory of D. E. Loewe & Co., of Danbury, Conn., or boycotting them, or interfere with the sale of the product of said factory? A. Not that I know of.

"Q. You do not know of any action? A. No, sir. 1993

"Q. Were you attending the meetings of the organization at that time? A. Prior to 1904?

"Q. Yes? A. I do not think I was.

"Q. Have you any records of that organization covering the years 1902 and 1903? A. I decline to answer.

"Q. Have you examined any records with a view to ascertaining if the local Hat Finishers' Union did take any such action in reference to D. E. Loewe & Co.? A. I decline to answer.

"Q. Did you ever take any action prior to the year 1904, for the purpose of influencing D. E. Loewe & Co., to 1994 unionize their factory, or for the purpose of decreasing the sale of its product or boycotting its product? A. No, sir.

"Q. Have you ever taken any such action, either prior to 1904 or subsequent thereto? A. No, sir.

"Q. Has the local Finishers' Union, No. 19, of Philadelphia, ever taken any such action? A. Never to my knowledge.

"Q. Have you examined any of the records or books of said local union, with a view of ascertaining whether or not said local union has ever taken any such action, either before 1904, or subsequent thereto? A. I decline to answer. 1995

"Q. Who are the present officers of the local Hat Finishers' Union, No. 19? A. I decline to answer.

"Q. Do you know who the officers were in 1902 and 1903? A. I decline to answer.

"Q. Are you acquainted with John Moffitt? A. I decline to answer.

"Q. Did you ever have any correspondence with John Moffitt? A. I decline to answer.

"Q. Have you produced any books in answer to the subpoena duces tecum? A. I have.

"Q. What are these books? A. It is the minute book of the local Union No. 19 of Hat Finishers. 1996

"Q. Will you let me have that book for examination? A. I decline.

"Q. Will you examine the book and tell me whether you find any reference to D. E. Loewe & Co.? A. I decline to do that for the same reasons as I have placed my former refusals upon.

"Q. Have you examined that book with a view to ascertaining if any action was taken in connection with D. E. Loewe & Co.? A. I decline to answer.

1997 "Q. Do you know whether or not there is any reference in the book to D. E. Loewe & Co.? A. I decline to answer.

"Mr. Shoyer:

I waive any objection as to the materiality or immateriality or form or relevancy or irrelevancy, or anything of that kind. It is simply upon the broad principles of the reasons assigned in my opening remarks. I will raise an behalf of the witness no objections to any and all questions propounded upon any other ground that that they are within the limit of the privilege which he has claimed

1998 in answer to the question where he originally stated and claimed his privilege; and I will raise no objection on the question that the witness was not properly subpoenaed. This I do on account of my stipulation with counsel for plaintiff at the last hearing, when a continuance was granted, upon my request for these witnesses.

"By Mr. Merritt:

"Q. Do I understand that the reasons why you refuse to answer each of the questions which you have refused to answer are the reasons stated in your first declination, namely on the ground that the answer would tend to

1999 incriminate you and deprive you of property without due process of law? A. Yes, sir."

I now read the deposition of

FRANK KEEGAN.

The Court:

The same ruling as to Frank Keegan. The motion to suppress is denied.

Mr. Mullholland:

The same exception. And may we have upon the record now a separate and distinct exception to every

2000 question that is answered by a declination to answer; for the reasons that are given heretofore?

The Court:

You may.

Mr. Merritt:

"By Mr. Merritt:

"Q. What is your business? A. Hat maker.

"Q. What factory do you work in? A. Frank Schoble Co. Ninth & Oxford.

"Mr. Shoyer as attorney for the witness, Frank Keegan, who has been sworn and is being examined, inquires of Mr. Merritt what is the purpose of the examination of this witness and what he proposes to prove by him. 2001
"Mr. Merritt:

I propose to prove that this witness was at various times set forth in the complaint a member of the Hat Makers Union here in Philadelphia, which was affiliated with the United Hatters of North America; and furthermore, at such time he was an officer of said hat makers union; that individually and as said officer and member of the Hat Makers' Union he became a member or part of the combination set forth in the complaint, and has been active in furthering and carrying out the purposes of said combination. 2002

"And I propose further to prove through this witness, any action taken by said Hat Makers' Union of Philadelphia in connection with the combination set forth in the complaint; and to this end introduce evidence from any records of this local Hat Makers' Union in the custody of this witness showing what action has been taken by said local association in the furtherance of said combination set forth in the complaint, and what action has been taken by this witness as an officer or member of said association, or individually. 2003

"Mr. Shoyer advises the witness that in his opinion he is entitled to claim his privilege as a witness on the ground that any further answers which he may make to questions propounded by Mr. Merritt in support of the offer of proof just stated, may tend to incriminate him, and may further tend to deprive him of property without due process of low.
"By Mr. Merritt:

"Q. Is that a union factory? A. I decline to answer on the ground that it might tend to incriminate me and deprive me of my property without due process of low. 2004

"Mr. Taylor as counsel for defendant desires to state and have it placed upon the record at this point of the proceedings, that the witness who has just declined to answer on the ground that his answer may tend to incriminate him, and deprive him of his little property, is beyond the control of the defendants, and that the defendants in this cause disclaim

2005 any responsibility for the witness exercising his privilege; also we take the same position in reference to any other declination that the witness may make to subsequent questions.

"By Mr. Merritt:

Q. Is there a local Hat Makers' Union in Philadelphia? A. I decline to answer.

Q. Are you an officer of the local Hat Maker's Union? I decline to answer on the same ground.

Q. Are you a member of the Local Hat Maker's Union? A. I decline to answer.

Q. Are you a member of the United Hatters of North 2006 America? A. I decline to answer.

Q. Do you know whether or not you are named as a defendant in this case? A. I have been informed that I am a defendant in this case."

Mr. Mulholland:

Was he a defendant?

Mr. Merritt:

I think it is explained later on that this refers simply to the state case.

Mr. Davenport:

Surely.

2007 Mr. Merritt:

"Did you ever receive a copy of the complaint in this case, or any case between the same parties—

The Court:

He is not one of these defendants?

Mr. Merritt:

He is not, no.

Mr. Mulholland:

I take it that none of these witnesses are defendants in the case we now have on trial.

Mr. Davenport:

No.

2008 "Q. Did you ever receive a copy of the complaint in this case, or any case between the same parties, pending in the Superior Court of Fairfield County, State of Connecticut? A. I received by registered letter a paper which purported to be a copy of the complaint and writ between D. E. Loewe the plaintiff, and Lawlor, et al., the defendants, in the Superior Court of Fairfield County, State of Connecticut in which my name appears as one of the defendants.

Q. Did you take any action for the protection of your own interests after you received that complaint? A. I decline to answer that question. 2009

Q. Did you ever authorize any one to appear for you in connection with the suit? A. I decline to answer.

Q. Are you an officer of the Local Hat Maker's Union of Philadelphia? A. I am local Secretary of Local Union 18 of Hat Makers.

Q. As Secretary, have you the custody of any of the books of that organization? A. I have, and have with me the minute book of the last local union.

Q. How far back does that minute book run? A. I decline to answer. 2010

Q. Have you examined that book to ascertain whether or not it contains a record of any action taken by the local Hat Makers of Philadelphia in reference to D. E. Loewe & Co.? A. I decline to answer.

Q. May I take the book for examination? A. I decline, for the reasons previously given, to submit the book to examination by you.

Q. Will you examine the book for the purpose of ascertaining if it contains any reference to D. E. Loewe & Co.? A. I will examine it if you desire me to take that time; but I would be compelled, with my understanding of my right and privileges, to decline to state anything of its contents. 2011

Q. Do you refuse to examine that book and testify concerning any of its contents, should it be pertinent to the issues in this case? A. I do, on the grounds which I have previously claimed as my privilege.

Q. Has the Local Hat Makers' Union of Philadelphia, No. 18, ever taken any action prior to 1904 for the purpose of unionizing the factory of D. E. Loewe & Co. or decreasing the sale of its product? A. I decline to answer.

Q. Has said local union ever taken any such action, either prior to 1904 or subsequent thereto? A. I decline to answer. 2012

Q. Have you any knowledge on the subject? A. I decline to answer.

Q. Have you individually ever taken any action for the purpose of compelling D. E. Loewe & Co. to unionize, or for the purpose of decreasing the sale of its products? A. I decline to answer.

Q. Have you ever taken any action prior to 1904 for the purpose of compelling D. E. Loewe & Co. to unionize

2013 or for the purpose of decreasing the sale of its product? A. I decline to answer.

Q. Have you the custody of any other books beside that minute book? A. I have the custody of all the local books,—that is, as Secretary, that apply to the duties of secretary.

Q. Have you the custody of any correspondence? A. I decline to answer that question.

Q. Do you know whether or not it is the practice of the organization to preserve its correspondence? A. I decline to answer the question.

2014 Q. How long has the organization been in existence? A. I decline to answer.

Q. Do you know for how long a period back it has preserved its records? A. I decline to answer.

Q. Is the organization affiliated with the United Hatters of North America? A. I decline to answer.

Q. Is it affiliated with any local council here? A. I decline to answer.

Q. Do I understand that the reasons why you refuse to answer each of the questions which you have refused to answer are the reasons stated in your first declination, namely

2015 on the ground that the answer would tend to incriminate you and deprive you of property without due process of law? A. Yes, sir.

"Mr. Schoyer:

I waive any objection as to the materiality or immateriality or form or relevancy or irrelevancy, or anything of that kind. It is simply upon the broad principles of the reasons assigned in my opening remarks. I will raise on behalf of the witness no objections to any and all questions propounded, upon any other ground than that they are within the limit of the privilege which he has claimed in answer to

2016 the question where he originally stated and claimed his privilege; and I will raise no objection on the question that the witness was not properly subpoenaed. This I do on account of my stipulation with counsel for plaintiff at the last hearing, when a continuance was granted upon my request for these witnesses. I have no objection as to the form of the subpoenaes duces tecum or otherwise; and the only grounds of the claims to be made, are the claims which have been set forth by me and the witnesses as appear in the record. This applies to all the witnesses examined."

I will read, as I have it before me a part of this deposition—the amount of business done by Wiernik & Edelstein with plaintiff each year from 1900 to 1903. 201

Mr. Merritt:

This is introduced by Mr. Taylor:

"1900	1012.75
1901	4388.36
1902	3436.67
1903	737.05"

We will claim on the later years at some later stage of the case; but we won't raise that question at this point.

Now I will read from the Journal for May 1903, on page 4 from the report of W. C. Hennelly: 201

"Pittston, Penna., April 23rd, 1903. Mr. John A. Moffitt, President U. H. of N. A. and Editor of Journal. Dear Sir: Nothing of any great importance has occurred during my travels since my last report for the Journal. There is such a similarity in my work at different places that I operate in that should it be reported in each issue of the Journal no doubt the readers would tire of it; so I will try and make that part of my report as brief as possible."

The skipping down to the end of it.

"Since my last report for the Journal I have operated in the following cities: Lancaster, Philadelphia, Wilkes-Barre, Nanticoke, Plymouth and Pittston. Lancaster is well organized—the members there have the right spirit; they insist that the label is the only guarantee that they will accept as to any article being union made. 201

"The old tricks of the dealers are all worn out there, and now it is a case of the real stuff or nothing. During my stay at Lancaster five unions were formed, which will give you an idea of the activity of the union men there.

"From Lancaster I went to Philadelphia for some needed information. With that in my possession I went to Wilkes-Barre, made a center of that city and worked in Plymouth and Nanticoke from there. These cities, like Wilkes-Barre are mining towns, with a population of about 15,000 each. I billed these cities, visited the retail dealers and attended all of the unions' meetings. My next town was Pittston, another mining town with all crafts well organized. I went through the usual performance here with good results. All of the suburban towns, such as Miners Mills, Duryea, and Wyoming, all of which have local unions of miners, got their share of advertising." 202

Now I read from the Journal for June, 1903, page 3:

"News from our agents. Agent William C. Hennelly. William C. Hennelly, representing the United Hatters Union of North America was in this city this week—"

This is from the Pittston Industrial Advocate, Pittston, Pa. "was in this city this week trying to discourage the sale of hats made by D. E. Loewe & Co., of Danbury, Conn., where the hatters are on strike for better conditions and union wages. He is visiting the retail dealers and acquainting them of the jobbing houses who are handling the product of this unfair concern. He addressed the Central Labor Union on Thursday evening and among other things said that eight-tenths of the hats made bore the Union label. He showed the delegates how the union label was sewed in the hats and gave the reasons for doing so. He said that there was not an article made but what could be procured with the union label on, if the union men would show to the dealers that they would buy no other kind. It would be the means of encouraging a majority of the factories manufacturing those goods, and consequently better the condition of thousands of employees. Mr. Hennelly explained to the delegates that when they bought goods without the label they were encouraging the scab and patronizing those who were willing to take their places during the recent trouble in this locality; or in other words they were boycotting the union men who stood by them in the time of need. He told of the deplorable conditions under which the non-union Stetson Hat was made. He said that a great majority of the people employed by Stetson were boys. This system, he explained, had been in operation since the factory has been in existence; this condition being continuous in this notorious non-union concern, compelled the boys to go elsewhere for work when they became men, which was a great injustice to the young men who thought they were learning a trade that they could follow all their lives. There being no room for them they are obliged to follow some vocation other than the one they served four years to learn at $3.00 or $4.00 a week. Mr. Hennelly is visiting all the local unions and acquainting them of the hatters' troubles. He is advertising the town, and is a most pleasant gentleman to talk with. The United Hatters of North America made no mistake in selecting Mr. Hennelly to represent their organization as he is the right man in the right place and made some lasting impressions in

this vicinity during his short stay here. We wish him success wherever he goes. Industrial Advocate, Pittston, Pa." 202
Mr. Merritt:

Now I turn to the Journal for January, 1903 and read from pages 10 and 11, the report of Mr. O'Haire in Richmond. This is under the head of "News from our Agents."

"Richmond, Va. Mr. John A. Moffitt, Editor of the Journal Dear Sir: I hope you will excuse my apparent neglect in not writing you a letter for the Journal before this about the work I am doing in Richmond. The work I have been doing was of such a nature that I could not go into details until the present time, without retarding it. When I ar- 202
rived here the first thing I done was to call on Mr. T. D. Stokes, and laid our case before him."

T. D. Stokes is a customer of D. E. Loewe & Co.

"My interview with him gave me very little encouragement, and according to your instructions and having his particular brand in my possession which you gave me before leaving Orange, I proceeded to call on the retailers. On investigation I found there were thirty-two stores handling hats and twenty nine handling the goods I was looking for, and all buying from Stokes. After telling the retailers the object of my mission they told me that they were ignorant of the fact 202
that this hat was non union made, and would give us all the possible support they could in our fight for rights and justice, and would have a talk with Mr. Stokes about handling this hat and tell him they would not be able to handle this scab made hat until the factory was unionized and it had the label.

"After visiting all the stores in Richmond I went to Petersburg, Manchester and Fulton, and called on the retailers in those places and found the hat in every store. These retailers said they knew nothing about the hatters union label, but would do the best they could to handle hats with 202
the label hereafter. In the meantime, I visited all the unions in Richmond, Petersburg, Manchester and Fulton. Richmond has thirty white unions and eight colored, and they all pledged us their support. When I visited the central labor union and told them of our grievance against this concern, at my request they appointed a committee to wait on T. D. Stokes, and they got no better satisfaction from him than I did. Also had a committee from the Cigar Makers call on him, and no better results came from these interviews. Mr. Lee and myself, together with these two committees, called

029 on him again and got the same old story. Exhausting every possible means to get a favorable answer from Mr. Stokes we then decided to draw up resolutions which you have a copy of, placing, T. D. Stokes on the unfair list, and have the Central Labor Union adopt them, which they did without a murmur. After doing this we had typewritten copies of the resolution made, delivered one to each of the unions and all the retailers whether they bought hats from him or not. The Legislature is in session here, and they have passed some laws in regard to Child Labor. This afforded me a good opportunity to do some advertising. I got per-
030 mission from the Sergeant at Arms to distribute our small cards on each of the representatives' desks. While doing this I was besieged with questions in regard to our label. My work that day will bear some good fruit. There were many in that body who were wearing the Stetson hat. They promised me that when they would buy another hat they would see that it had that stamp in it. When I was leaving them they congratulated me on behalf of our organization in being up-to-date in our method of advertising and creating a demand for our label. The work here has been very tedious, but this does not worry me; it can't come too hard or
031 fast as long as we accomplish our object and create a better demand for our label in the south. My instructions about the label at the meetings are listened to very attentively and our label is always sure to get their endorsement before I leave the hall. In nearly every instance they pass resolutions fining a member if he is caught wearning a non-union made hat. There is no labor paper here, and we have to rely on the Richmond Daily News for the notices we get in regards to our work here. This paper has a labor column in every day, and has given our work in this city favorable recognition. Labor organizations in Richmond have increased a
032 hundred per cent. in the past four years. Since I came here they have organized the Blacksmiths, Laundry Workers, and the Bar Tenders. This organization started with a charter membership of sixty five. Our new Hangers are looked upon as a piece of artistic work and a catchy ad. As usual, I have advertised Richmond, Manchester, Petersburg and Fulton with our hangers and small cards. Yours respectfully, F. J. O'Haire, Agent of the U. H. of N. A."

And then on page 23 of the same Journal I read under the heading "Colored Central Body. "At a meeting of the Colored Central Labor Union Wednesday night, after hearing

a report from Label Agent O'Haire, resolutions were adopted placing the Madison hat made at Danbury, Conn."— 203

And the Madison hat is a Loewe Brand which was being sold in that part of the country.

"And instructing the delegates to see that the members of their respective unions wear none but union made hats. Richmond, Va."

Mr. Mulholland:

That article is objected to particularly, because it seems to be fathered by no one. There is no name signed to it. It is simply a blank statement written into the Journal.

The Court: 203

It says "Richmond, Va." that is all it says. This is in the Journal of the United Hatters of North America.

Mr. Mulholland:

Yes, Your Honor.

The Court:

Well, that depends upon how the jury may find the fact to be in relation to the action of the United Hatters' Association; whether this Journal is the mouthpiece of that Association or not. So it is received here subject to how the jury may find the facts from the whole evidence, relating to the connection of that Hatters' Union with this strike or boycott. 203

Mr. Merritt:

And I am going to read first from the deposition of William E. Seal.

"Depositions of the following witnesses taken on behalf of the plaintiff, pursuant to notice, before the undersigned, a Notary Public in and for the City of Richmond, State of Virginia, at the office of James Lewis Anderson, No. 1 Goddon Hall, in the City of Richmond and State of Virginia, on the second day of February, 1909, at the hour of 10:00 A. M.; present, Walter G. Merritt, for plaintiff, H. W. Taylor for defendants. 203

WILLIAM E. SEAL,

a witness called on behalf of the plaintiff herein and residing more than one hundred miles from the place where this cause is to be tried, being duly cautioned and sworn to tell the whole truth, and being carefully examined deposes and says, as follows:

2037

DIRECT EXAMINATION

By Mr. Merritt:

Q. Mr. Seal, state your age, residence and occupation? A. I am thirty eight, reporter, 1024 West Main Street, Richmond, Va.

Q. Were you ever connected with the Richmond News in any capacity? A. From about the time it started.

Q. In what capacity were you connected with that paper on the 10th day of December, 1902? A. Labor
2038 Editor.

Q. I show you what purports to be an issue of the Richmond News of that date, and ask you whether that is a copy of the paper issued on that date and for that date? A. Yes, sir."

Mr. Mulholland:

The next question and answer objected to.

The Court:

Well, this class of evidence comes within the rules that I have made heretofore.

Mr. Merritt:

2039 We offer it directly as proof of the fact, because Mr. O'Haire—

The Court:

Proof of the facts as to what?

Mr. Merritt:

What Mr. O'Haire had been doing.

The Court:

Down there?

Mr. Merritt:

Yes.

The Court:

2040 Now its force depends upon what the jury may find its connection to be with this matter in hand.

Mr. Mulholland:

Save an exception.

Mr. Merritt:

"Q. I will ask you to turn to and examine an item of news there under the heading of 'News of the Labor World,' and particularly the paragraph which bears the heading 'The Hatters Fight Here,' which paragraph has already been read in evidence in the examination of Mr. Rankin, and ask you whether or not you in your capacity as Labor Editor gathered

and prepared that item of news? A. Yes, sir, I gathered it 204
and wrote it.

Q. I will ask you how that news came to your attention?"

Mr. Mulholland:

That is objected to.

Mr. Mulholland:

Save our exception.

The Court:

Go on.

Mr. Merritt:

"A. It was part of my duty in that connection to at- 204
tend the meetings of the Trades and Labor Council, and as many other organizations as possible, but more especially the Trades and Labor Council, which met at that time, I think, on the second Tuesday of every month. At that meeting I saw these two representatives. I had met them before the meeting, but I saw them at this meeting particularly, and I was requested by them to note the statements they would make publicly on the floor—not publicly as the meeting was not public; but semi publicly.

Q. In speaking of these two labor representatives, you are referring to Mr. F. J. O'Haire and Mr. C. J. Lee? 204

Mr. Lee is the man referred to previously in the records of Mr. Shalvoy as Chris. J. Lee.

Mr. Merritt:

"Q. In speaking of these two labor representatives you are referring to Mr. F. J. O'Haire and Mr. C. J. Lee? A. Yes, sir.

Q. Whose names are mentioned in the article? A. Exactly.

Q. Did you attend this meeting on the evening of December the 9th, 1902, which was a Tuesday evening? A. I did, yes, sir, I was there.

Q. I will ask you to testify whether or not the facts 204
as stated in that news item under the head of 'The Hatters' Fight Here' correctly state the events which occurred at that meeting on that date?"

Mr. Mulholland:

That is objected to and exception.

Mr. Merritt:

"A. Yes, that is practically all that took place at that meeting. The time of the meeting was practically taken up by these two gentlemen in their talk. They had been here some

3045 time they said canvassing the stores and canvassing the labor organizations as well, and urging them to boycott the product of T. D. Stokes & Co. here in Richmond, because they got their hats made by a firm in the North that had been fighting organized labor in general, and especially the United Hatters of North America. That hey employed foreign labor, unskilled labor, child labor and did all the things that the labor union considered improper in their business.

Q. That is what Mr. O'Haire and Mr. Lee said to you? A. That is what they stated in the meeting and stated to me also. I met them at their hotel and they came to my of-

3046 fice."

Mr. Mulholland:

We will not read the cross examination.

Recess.

Mr. Merritt:

Now I will read the deposition of

LELAND RANKIN:

"Q. Mr. Rankin, state your age, residence and occupation? A. I am forty one years old; I live at Forest Hill

3047 near Richmond, Va. I am a newspaper manager.

Q. Of what newspaper? A. At this time of none. I sold out my interest in this newspaper (News Leader) six months ago.

Q. You have produced here a copy of the Richmond News for Wednesday, December 10th, 1902. Can you state whether that is the regular issue of that paper for the date which it bears? A. Yes, sir; it is.

Q. It was a daily paper? A. Yes, sir, except Sunday.

Q. What circulation did it have on December 10th, 1902."

3048

Mr. Mulholland:

Objected to as immaterial.

The Court:

Well, it may be received subject to your exception.

Mr. Merritt:

"Q. What circulation did it have on December 10th, 1902? A. About twelve thousand.

Q. Largely in the city of Richmond?"

Mr. Mulholland:

The same objection and exception.

Mr. Merritt: 2049

"A. Yes, sir, over half.

Q. What relation did you bear to that paper at that time? A. On the date of this paper I was General Manager and Publisher of the Richmond News, having entire charge of its affairs except the editorial policies.

"Q. I will ask you to read to the stenographer the item on page 2 of that paper under the head of "News of the Labor World." "Witness reads as follows:"

Mr. Mulholland:

To which we object and save exception.

Mr. Merritt: 2050

Now this is the article: "The Hatters' Fight Here. Much of the time of the Trade and Labor Council last night was taken up with the fight of the United Hatters of America against the product of a factory handled by T. D. Stokes of this city.

"Two of the official representatives of the United Hatters, F. J. O'Haire and C. J. Lee, have been here since September 26th and October 26th respectively, pushing the fight against Mr. Stokes for having his hats made in a factory on their unfair list. As the result of their work, resolutions were unanimously adopted placing the firm of T. D. Stokes & Co. 2051 on the unfair list. Copies of the resolutions were ordered sent to all the Central Labor Unions of the State.

"The representatives of the Hatters in their resolution say that the hats manufactured for this firm are made in a factory that discriminates against organized labor and employs unskilled, foreign and child labor to make the hats."

Mr. Merritt:

Deposition of

THOMAS D. STOKES:

"Q. Mr. Stokes, state your age, residence and occupation? A. Forty seven years old, residence Richmond, occupation wholesale hat business. 2052

Q. How long have you been engaged in the wholesale hat business? A. Since 1885.

Q. Under what name do you do business? A. At present T. D. Stokes & Co.

Q. How long have you done business under the particular name? A. Since 1897 or 1898.

2053 Q. What position do you occupy in connection with the company today? A. Senior member of the firm.

Q. Do you have the determination of the question from whom your hats are to be purchased? A. Mr. Andrews at present is our buyer but I have control of it all.

Q. You have authority and power to direct Mr. Andrews as to the persons from whom he shall buy his hats, if you care so to direct? A. Yes.

Q. How long have you had authority and power to determine from whom your hats shall be purchased? A. Since 1894.

2054 Q. During all this period covered by your testimony you have been in business as a wholesaler in hats, have you not? A. Yes, sir.

Q. Are you acquainted with the firm of D. E. Loewe & Co., of Danbury, Conn.? A. Yes, we know them.

Q. Have you ever purchased any hats from them? A. Yes.

Q. Give, in a general way, the period covered by your purchases? A. I would say we commenced buying from them somewhere between 1896 and 1900.

Q. Are you still buying of them? A. We are not.

2055 Q. When did you discontinue? A. I would say about January 1903.

Q. Were the goods satisfactory, as merchandise goes? A. Very satisfactory.

Q. And your relations with the concern were satisfactory? A. Entirely so.

Q. Do you remember the names of any particular brands you purchased from them? A. My recollection is that the only brand we bought from them was the Madison brand.

Q. Why did you discontinue purchasing from them? A. There was some controversy between that firm and the labor union.

2056 Q. How did that matter come to your attention? A. Through representatives of labor coming to see us with reference to that difficulty.

Q. Did people come to see you on more than one occasion in this connection? A. Several times, I think.

Q. Give me as nearly as you can the time of the first visit? A. I would say in either September or October, 1902.

Q. And how many men were there at that time? A. My recollection is that only one representative was here at first. 2057 2060

Q. Do you recall his name now? A. Mr. O'Haire, I think.

Q. Give us as nearly as you can the conversation that took place, starting as Mr. O'Haire came in to see you; how he introduced himself."

Mr. Mulholland:

Objected to, save an exception.

Mr. Merritt:

"I think he told me that there was some difficulty between the Labor Unions and Mr. Loewe's factory, and that we were purchasers from Mr. Loewe and he hoped we would discontinue buying goods from Mr. Loewe. 2058 2060

Q. What did you reply to him?"

Mr. Mulholland:

We desire our exception to apply to all the conversation that occurred between him and the men that they claim to be agents in this case. That will save our interrupting the reading of the depositions during the conversation, if it will be allowed.

Mr. Merritt:

"I replied to him that we could not accede to his request. 2059 2060

"Q. Is that all that you recall that took place at that time? A. Unless my memory was refreshed; no, I cannot recall that conversation, because there was that conversation and several conversations following.

Q. Now as nearly as you can recall it, how long after that visit of Mr. O'Haire did you receive another visit concerning that matter? A. Oh, it all happened within two or three months, I cannot say more definitely than possibly a month. It might have been two weeks and it might have been six weeks. 2060 6

Q. Did one or more men visit you on this second visit? A. There was a second visit at which several representatives of the labor union came to see us; and possibly it was the second visit, when there was a Mr. Nullen, and Mr. Krouse.

Q. Do you recall whether there was anyone else? A. My recollection is that there were more; but I do not recall any other names; and I am not positive that was the second visit.

2061 Q. Did you receive any other visit? A. Yes, I had a visit afterwards from some of the clerks, I think the clerk's union, if they have such a union as that in Richmond.

Q. Can you state whether there was any other? A. Well, my recollection is that those clerks wanted me to write a letter to D. E. Loewe & Co.; and possibly they came back subsequently, or a part of that committee and some others, to find out the reason of a letter I wrote to D. E. Loewe & Co.

Q. Did you write D. E. Loewe a letter at their suggestion? A. My recollection is that I did. This has been six
2062 or seven years ago. I have been engaged in two wholesale businesses here and I run two farms, so my memory may be a little defective.

Q. I show you a letter bearing date December 2nd, 1902, purporting to have been written by you, and ask you whether that is your letter? A. That is my signature. I presume it is my letter.

Q. Will you read that letter over and tell me if that is the letter written by you at the request of the Labor Unions?"

Mr. Merritt:

Now I offer the letter.

2063 Mr. Mulholland:

Objected to.

The Court:

Well the court strikes out of question 34 "At the request of the labor union."

Mr. Mulholland:

Save the exception to the ruling.

Mr. Merritt:

"Richmond, Va., December 2, 1902. Mr. D. E. Loewe, New York. Dear Mr. Loewe: As you no doubt are advised, there has been one representative for the United Hat-
2064 ters of North America in Richmond since soon after the trouble started at your factory. A part of the time there have been two. Mr. O'Haire saw me soon after coming to Richmond, and I then explained to him that we could not discontinue handling your line of hats. Since then I have not seen Mr. O'Haire, but from what I understand he has been in Richmond most of the time using his influence with both our labor organizations and the retail dealers. Under the circumstances, we have made no special effort to place your goods on our market.

"I was visited today by two representatives of our Rich- 206
mond unions. One of them I knew personally. They wanted to get me to use my influence with you to have you adjust your troubles with the strikers; and my reply to these two gentlemen was that I could not conscientiously do that. I explained to them that in my judgment were you to unionize your factory it would have one of two effects:

"First to maintain the standard of your goods you would have to advance your prices to a point to about equal those of Fred Berg's, from whom we buy our Jefferson Hats. I mean that your cheapest grade would then be about the cheapest grade made by Berg. I explained to them that in 206
this event we would not need both factories, and as Mr. Berg had always made our Jefferson hat we no doubt would have to place our business with him to your detriment.

"Second, if you were to unionize your factory and maintain your prices, then the character of your hat would be entirely changed; and in that event we would not be prepared to say that we could handle an inferior hat from you at the old price. In answer to this these gentlemen remarked that you could unionize your factory and still give us the same prices. I very strongly dissented from this opinion of theirs.

"They then asked me to write and ask you if the claim 206
they made was not true. I could not well decline this request, so I have written you all the circumstances and await whatever you may choose to write me on the subject. If you wish me to keep your letter as confidential, you have only to say so; but if your letter is one that I can show these gentlemen and retain possession of the letter, you can advise me in that letter. Yours very truly, Thos. D. Stokes."

Q. You have spoken of several visits which you received from various representatives. Have you given me the names of all the parties you recall who came to see you in this connection? A. Well Mr. Don Leavy came to see me, I 206
think as a representative of the clerks; and it seems to me a Mr. Perkins, who was then with the Globe.

"Mr. Taylor:

Did they both come as representatives of the clerks?

"Witness:

Now whether they came together or separately I can't at this late day recall. I think they came separately.

"By Mr. Merritt:

2069 Q. You cannot say how many visits you received? A. I would say three to five visits.

Q. And you have testified, have you not, that they all came in a period of a few months? A. Two or three months, I should say.

Q. At that time was in the later part of 1902, or the very early part of 1903? A. Most of the visits were in the latter part of 1902.

Q. Whom did Mr. O'Haire represent himself to be? A. My recollection is that he represented himself to be a representative of the United Hatters Association.

2070 Q. Did he always come alone? A. My impression is that on one visit Mr. Lee was with him.

Q. Do you recall the initials of Mr. Lee? A. No, I would not care to give that from recollection.

Q. Can you state whether is was C. J. Lee? A. I think probably they were his initials. I think they were.

Q. Whom did Mr. Lee represent himself to be? A. Also a representative of the United Hatters Association.

Q. Do you recall the last visit which you received in connection with this matter? A. Do you refer to a visit when I told them I would discontinue handling Loewe's

2071 goods?

Q. Well I was not referring to any particular visit. I did not know but what you remember just who visited you the last time, and that perhaps you could single out the conversation on the last visit, and it would not be as confused as a general question on the subject? A. I do not remember. My memory would have to be refreshed on that.

Q. Can you give me the conversation that took place on each particular visit? A. I would not attempt to do that.

Q. Can you give me the substance of the conversation at each particular visit, showing what took place at each

2072 particular visit.

Mr. Mulholland:

Objection. Exception.

Mr. Merritt:

"A. Well the first visit of Mr. O'Haire he told me of this trouble at the factory of D. E. Loewe & Co. and asked me to discontinue the use of their goods. I told him I could not. Then subsequently there were some of the representatives of the Trades Union here, Mr. Mullen and Mr. Krouse, as well as I remember—possibly there might have been

some one else with them. They asked me, I think, to write Mr. Loewe and ask him to unionize his factory. I am just repeating the letter. Do you want me to do that? 2073

Q. All right—"

Mr. Mulholland:

Objection to the last question and exception.

Mr. Merritt:

"I told them I could not conscientiously ask Mr. Loewe to unionize his factory; that I had always understood that a union hat cost more than a non-union hat. We were buying a twelve dollar hat and only a twelve dollar hat from D. E. Loewe & Co."

Mr. Merritt: 2074

That means $12.00 a dozen.

"And from my general knowledge if they unionized that factory the cost of that hat would be $13.50; and I told them that I was buying $13.50 hats from another factory, and had been for years, and had established a trade on them; and therefore from my understanding of the case, if he was to unionize his factory, we could not buy his goods. Then they told me that they thought I was mistaken on that subject and asked me if I would not write D. E. Loewe & Co. and ascertain from him if I was not mistaken, which I did.

Q. Now come to the substance of the conversation at the next visit as far as you recall it; or the next visit that you recall. A. My recollection is that either those gentlemen or some others to learn the result of my letter to Mr. Loewe. 2075

Q. Did you give them the contents of Mr. Loewe's letter to you in a general way?

Mr. Mulholland:

The next answer is objected to for the reason that it does not seem to identify anybody to whom he refers and as hearsay.

The Court: 2076

Go on.

Mr. Mulholland:

Exception.

Mr. Merritt:

A. My recollection is I did.

Q. What else took place? A. I don't remember anything else that took place, other than I told them I would continue to handle Mr. Loewe's goods. Then it seems to me there was this delegation of the retail clerks that came to see

2077 me—in a very friendly attitude they were—and tried to use their influence to me, expressing the kindest feelings towards our firm, etc., to get us to discontinue the use of D. E. Loewe & Company's goods. My recollection is that I told them that we could not; that we would have to continue the use of Loewe's goods. Now that is as far as I can remember the visits in reference to that matter. There may have been one or two more.

Q. How about the visits from Mr. Lee and Mr. O'Haire, concerning which you have already testified; did that come after the visits which you have described? A. I can-

2078 not say that.

Q. You have heard read here the newspaper clipping which was put in evidence, taken from the Richmond News of December 10, 1902, and entitled, 'The Hatters' Fight Here.' Do you remember what relation in point of time any of these visits bore to the publication of that item of news? A. Some of them, possibly all of them, were before that.

Q. You cannot state positively on that point? A. I cannot.

Q. Do you not associate the publication of that matter

2079 concerning your concern, with certain developments or events in connection with the whole thing?

Mr. Mulholland:

Answer objected to as hearsay.

The Court:

Why, I think it is admissible as part of the history of the business transactions, bearing upon the question of damages.

Exception.

The Court:

That is very familiar to me. That is the salesman of

2080 the plaintiff. Here it is the salesman of the deponent.

Mr. Mulholland:

Of course my mind is not able to distinguish—

The Court:

And the deponent is a merchant who has been buying the plaintiff's product, and ceased buying it. It is evidence tending to show the history of the business transactions; not of the fact specifically stated by the deponent's salesman, but the course of the business affairs.

Mr. Merritt: 208

"Q. Do you not associate the publication of that matter concerning your concern with certain developments or events in connection with the whole thing? A. About that time, or probably a little afterwards, I was told by our city salesman that he found it practically impossible to sell our goods on this market.

Q. Can you state why?

Mr. Mulholland:

Answer objected to as hearsay. Save the exception. It is practically the same thing; goes on to state a conversation or the gist of a conversation he had with his salesman. 208

The Court:

Well, it is a conclusion of the deponent. He states the reasons there why he did not continue to buy the Loewe Hats. That is admissible for the same reason and along the same lines as I have just now stated.

Mr. Mulholland:

Save an exception.

Mr. Merritt:

"Q. Can you state why? A. Because if the retailers bought goods from us they thought they would be injured in their business by the loss of patronage from labor unions. 208

Q. Now you suggested, Mr. Stokes, that you finally told some of these representatives that you had decided to discontinue the use of Loewe's goods? A. Yes.

Q. Will you tell me who the men were to whom you made that statement? A. I can't tell you the men or the method; it might have been by letter or it might have been by conference; but I did tell them some time about the last of December—my recollection is though that it was probably within the next week"—

Mr. Mulholland:

Next year.

Mr. Merritt: 208

"The next year—that we would not handle any more of D. E. Loewe & Co.'s goods until the differences between Loewe and the labor unions were settled.

Q. Did you come to that conclusion before or after you say this publication in the Richmond News? A. I have just stated that I came to that conclusion the last of December or early in the following year; or in other words after that publication.

085 Q. What, if anything did those men say to you to bring you to the conclusion of giving up further dealings with the goods of D. E. Loewe & Co.?"

Mr. Merritt:

"A. I cannot remember that they said anything further to me on the subject.

Q. Did they or not suggest to you at any time that it would be to your advantage to give up the goods of D. E. Loewe & Co.? A. In my interviews with them, as well as I remember, they rather used persuasive arguments than threats, so far as my interviews with them were concerned,

086 and so far as I remember those interviews.

Q. What influenced you to cease your dealings with D. E. Loewe & Co.?

Mr. Mulholland:

Answer objected to as hearsay.

The Court:

Well, that may be received with the same limitations and for the same purpose that I have just now stated.

Mr. Mulholland:

Save an exception.

Mr. Merritt:

087 "Q. What influenced you to cease your dealings with D. E. Loewe & Co.? A. Because of what my city salesman told me and because of what seemed to be the result of those interviews and that newspaper notice; our business in Richmond was practically stopped; then I heard from our driver that his wagon from time to time had been watched at the depots; and I also heard, but I cannot remember from whom, that as they had so effectually stopped our business in Richmond they would probably go against our business in other Virginia cities, and subsequently in the South.

088 Q. Did you ever have any conversation with any of the trade in Richmond concerning this matter—meaning your customers? A. I don't think I ever had a conversation with more than one. I never go to see our trade in Richmond. When we commenced to sell our goods in Richmond I personally avoided making any personal solicitations; but Simon Sycle was a very close personal friend of mine and probably the biggest city customer we had, and from time to time he used his influence with me to settle the matter with these representatives of labor who were here. But as well as I remember I had no conversation with any merchant in

Richmond and I followed the conditions that were existing through our city salesman. 2088

Q. Mr. Sycle was a customer of yours, was he not? A. Yes.

"Q. Did Mr. Sycle continue patronizing you all the while during this period of time?

Mr. Merritt:

"A. I am very sure that he did not.

Q. Did he give any reasons for discontinuing?

Mr. Mulholland:

If the court please, the last sentence in that answer is is objected to. 2090

The Court:

Why he can read the answer.

Mr. Mulholland:

Save an exception.

Mr. Merritt:

"Q. Did he give any reasons for discontinuing? A. My recollection of that matter is that when our city salesman told me that there was a disinclination on the part of the merchants in Richmond to buy our goods, that I went to Mr. Sycle and told him that until this matter was settled I would prefer that he did not buy any more goods from our firm. If it would have injured others it would naturally have injured him, and I was not willing that he should injure himself in trying to do me a favor. 2091

Q. Do you know how Mr. Sycle came to discontinue dealings with you—yes or no? A. Well, I think I have answered that question.

Q. Mr. Taylor has questioned that answer, and if you will excuse me I will ask you to answer it all over again? A. I think I do.

Q. I will ask you to state, if you can, how it was that Mr. Sycle came to cease dealing with you? A. My recollection is—" 2092

Mr. Mulholland:

Same objection. Exception.

Mr. Merritt:

"That when our city salesman told me that we were losing business in Richmond on account of the antagonism existing between us and labor unions I went to Simon Sycle and told him I would prefer he would not buy hats from me

2093 again until the differences between us and the labor unions were settled.

Q. Why did you tell him that?"

"Q. Were you doing business at this time with The Gans-Rady Co.? A. I have sold almost everybody in town from time to time; and I presume that we were doing some business with Gans-Rady at that time; but we never dealt with that firm largely.

Q. Can you state whether you were doing business with the Globe Co. at that time? A. I suppose we were. We have sold the Globe a small percentage of their hats more or

2094 less all the time since they have been here.

Q. Can you state whether you were doing business with Jacobs & Levy? A. Yes, we have sold them for quite a while in a small way.

Q. Were you doing business with J. H. Busby at that time? A. Yes. We have sold Busby.

Q. Were you doing business with K. Fischer & Son at that time? A. Yes, we have sold that firm goods.

Q. Were you doing business with O. H. Berry & Co. at that time? A. No; we sold him very few goods.

2095 Q. Were you doing business with Theodore Nelson at that time? A. We have sold him goods.

Q. Were you doing business with J. R. Goode & Sons at that time? A. Yes, we have sold them.

Q. Now I will ask you if that is your letter? A. That is my letter."

Mr. Merritt:

"Q. Referring to Plaintiff's Exhibit 129, being your letter of January 20th, 1903, it is signed by a typewritten signature, but I will ask you if you recall having dictated such a letter? A. Yes, I recall dictating such a letter.

2096 Q. I will ask you whether that letter of January 20th, 1903, correctly represented your state of mind at that time? A. It did.

Q. And whether the facts therein stated are true? A. To the best of my knowledge. It was my opinion and I acted accordingly." 2091

Mr. Merritt:

Now I offer that letter.

Mr. Mulholland:

To which we object.

The Court:

Well, if the jury find the facts, as I have just now outlined that the plaintiff claims to be the facts, and as his evidence tends to show and that these parties visited this deponent, and the frame of mind that controlled him in writing this letter is the result of the effort of either the agents or co-conspirators of these defendants in the violation of the United States statute as to the plaintiff's right of free trade and commerce between the states, then this letter is admissible as bearing upon the business transactions between him, the deponent, and this plaintiff, and bearing upon the question of damages also; and if the plaintiff wants to take it under that ruling it may be received subject to defendants' exception. 2094

Mr. Merritt:

"Richmond, Va., January 20th, 1903.

Mr. D. E. Loewe, New York. 2095

Dear Sir: We beg to acknowledge receipt of your favor of the 17th. It is very gratifying to the writer to realize that you thoroughly appreciate the stand we have taken in this matter and instead of having any resentment towards us for our seeming desertion of you, that you seem to appreciate what we have done, and you will pardon us for saying that we have done it cheerfully and willingly.

"Now our reason for our present position is simply this, as we understand the situation. We were waited on by a committee consisting of Mr. O'Hare and Mr. Lee from the Hatters' Association, together with three members of the Federation of Labor from our city. 2100

"The object of their visit was to ask us to discontinue handling your goods, which at that time we did not promise that we would do. Just after this interview our firm was placed on the 'Unfair List.' All the retailers in Richmond of any consequence, if not all, were notified of this fact. The impression left on the retailers was that if they continued to buy our goods they would be placed on the 'Unfair List.'

"Since this was done our trade has virtually amounted to nothing in Richmond. As we see the condition at pres-

101 ent, so long as we remain on the 'Unfair List,' we will be able to do but little business in Richmond, and we have every reason to believe that the policy and plans which they have worked out in Richmond will be extended to our Southern territory.

"In view of these facts, we feel that we have a right to believe that our business can and would be very seriously injured by the continuance of our name on the 'Unfair List.' In view of these facts, we have concluded to have our name taken from the 'Unfair List,' and to do this, as we understand it, we must promise to discontinue the purchase of your goods
102 so long as your strike is on.

"I think I have stated the conditions accurately as they are, and if I have failed to do this, it is only from a lack of ability to express myself clearly. I realize that where a union makes a concerted fight against any jobber who has an appreciable amount of city trade that they can materially interfere with his business, and it will not be long before that jobber realizes and appreciates that he is inviting an antagonism which can only be expensive and costly to him, with no chance whatever of winning out single handed.

"With the assurance of my very highest regards to
103 yourself and regretting exceedingly that the conditions are such that we must discontinue our patronage of a firm whose methods have been so uniformly courteous and fair to us, we beg to remain, Yours very truly, T. D. Stokes & Co."

Recess until 2:05 P. M.

Afternoon Session, September 6th, 1912.

Mr. Merritt:

Just a few questions remain in this deposition of Mr. Stokes.

"Q. Have you given all of the reasons why you discontinued dealing with D. E. Loewe & Company? A.
104 All that I can recall.

"Q. I will ask you to state briefly the sole reasons why you discontinued dealing wtih D. E. Loewe & Company? A. Because they had practically stopped our business in Richmond, and from what I understood, though I do not claim to remember the sources, the fight would probably be continued to our southern territory.

"Q. Just testify to whom you refer as 'they' in your last answer? A. I mean the labor organizations of Richmond, which consisted of Mr. O'Haire and Mr. Lee."

Mr. Beach:

We will not read the cross.

Mr. Merritt:

Then I will read from the Journal for 1903, on page 19.

"F. J. O'Haire very successful.

"F. J. O'Haire, label agent for the United Hatters, who has been in this city for a month making a fight against the Stetson hat—"

The Court:

(Interrupting) What city is that?

Mr. Merritt:

Richmond, Virginia.

"F. J. O'Haire, label agent for the United Hatters, who has been in this city for a month making a fight against the Stetson hat and the product of a hat manufacturing firm in Danbury, Conn., says he has been very successful in his fight here, and he is not through yet. Mr. O'Haire visited all of the trades unions of the city and acquainted them with his objects here and the Trade and Labor Council appointed a committee to cooperate with him in an effort to induce a local wholesale dealer to stop handling these two products.

"In an interview Mr. O'Haire had with this dealer, he says the dealer did not think that organized labor amounted to much in this city.

"Mr. O'Haire then visited the retail dealers in hats here and informed them of the fight against these two products, and the fact that organized labor in this city had pledged its support in the fight. The following retail dealers who have been customers of this wholesale firm have promised Mr. O'Haire that they would handle no more of these hats: Gans-Rady Company, the Globe, Jacobs & Levy, the Hub, J. H. Busby, K. Fisher & Son, O. H. Berry, Theodore Nelson, J. R. Goode & Son. Other firms will be visited by Mr. O'Haire this and next week, and a report covering all firms visited and replies by him will be made to the Trade and Labor Council at the meeting Tuesday night. Mr. O'Haire expects to remain here some time.

"Richmond, Va."

I now read from the Journal for March 1903, report of J. Byrne, on page 6. The report begins on page 5.

2:109 "Commercial Hotel.

"Macon, Ga., Feb. 17, 1903.

"Mr. John A. Moffitt, Editor Hatters' Journal.

"Dear Sir: After a lapse of six months, and in common with the other agents on the road, I desire to submit a brief summary of what I am doing in the South, my previous work and whereabouts from July 1902 to January 1903 being reported in a series of weekly letters to yourself and others left in charge by you in your absence, none of which, however, appear in, nor were they intended for, the Journal.

2:110 "Acting on the instructions contained in your telegram from Philadelphia I proceeded to Atlanta, Ga., arriving there late in the evening of January 13."

Then he tells about registering the label, and I will skip on down to the middle of page 6.

"At none of the hat houses here could I discover any of the goods I was in search of, but I was greatly surprised at the large number of non-union hats that find sale in Atlanta. In going through the dealers' stock I have examined as many as five hats before I have got one with the label on. Inquiring from the dealer as to

2:111 the cause of this, I was invariably told that there was not much call for the union label; that non-union goods were cheaper, and that the people wanted cheap goods.

"The place is fairly reeking with goods of Tom & Bailey, Marshall, and the Wearing Hat Company. There are 58 labor unions represented in the Federated trades here, which is the central body. I met the central body the second night I was in town. After stating my mission to Atlanta, giving them a general talk on our label and label goods as a whole, I told them that I had but just

2:112 arrived in their city, and hearing that they would not meet again for two weeks I could not resist the opportunity to call on them, even though I had not canvassed the stores, and consequently could not say as yet whether they could do anything for me or not, but would be glad if they would appoint a committee to assist me in case I needed their assistance. This request was at once complied with by the Grievance Committee being placed at my disposal should I require their services. Their subsequent meetings I attended, and I was fortunate enough to meet nearly all of the locals, and dwelt on the neces-

sity of the locals appointing committees to visit the merchants and ask for label goods, and thus create a demand for them. I cited several cases in the Eastern cities where this was and still is being done with good results. They seemed favorably impressed with the idea, and I am glad to say that the matter is taking root, and will eventually bring desirable results. 2113

"After a stay of two weeks at Atlanta I left for Rome, arriving there January 28th. Here I found eleven retail stores, and only six labor organizations. Much the same conditions obtain here as in Atlanta regarding non-union hats and non-union everything else, but none of what I expected to find. 2114

"I met the Typographical Union on Sunday, February 1st, and they told me the C. L. U. only met on the second and fourth Thursday."

That is the Central Labor Union.

"I said I was sorry for that, as I would like to have met them before I left town, whereupon they sent out a call for a special meeting of that body for Tuesday night, February 3rd; but, strange to say, only three of the delegates put in an appearance. To those that I met I went over the same ground about forming committees to push union made goods, but I very much fear it will not amount to much in Rome." 2115

I then skip a column.

"On February 2 I paid a visit to Cedartown, a small town 25 miles northeast of Rome, and found seven houses handling a cheap line of hats, but there being no labor organizations there, I billed the place and returned to Rome; stayed two days longer, then struck camp and landed here in Macon on the 4th inst.

"I found it a pretty town of nearly 24,000 souls, and although not affiliated with the A. F. of L., they had a Central Labor Union, a Builders' Trade Council, and about 23 locals unions, all hustlers. They done good work for us here with the jobbing house of Dannenberg & Co. 2116

"There are 16 retail stores and three wholesale houses in this town, one of the latter, Gans & Lipman, having the unique distinction of being a wholesale liquor store, as well as a wholesale hat store (no sampling allowed). At none of these stores did they acknowledge having what I wanted, but readily admitted having what I did not

2117 want, such as Tenny, Marshall, Tom & Bailey, and the Wearing Hat Company's goods.

"In a twenty minute talk to the Central Labor Union on the 10th inst., on the subject of union labels in general, and the Hatters' label in particular, it was agreeable to note the number of delegates that came to me after the meeting to shake my hand, and assure me of the hearty approval they had of the methods the Hatters employed to create a demand for union label goods, by not only buying union goods, but by taking the labels off and turning them in to their respective locals, as a mark
2118 of good faith, thus showing they practice what they preach.

"I had about got ready to leave Macon when I received a communication from Mr. Lawlor, saying 'Something new on the tapis. Don't leave Macon' until you hear from me.'

"Yesterday I received your very interesting letter, which explained many things to me, and I shall follow the instructions contained therein; but as you gave no order to move, I decided to await developments for a day or so.

2119 "Tomorrow I shall leave here and carry out my original plan of going from here to Columbus, from there to Augusta, thence to Savannah, Ga.

"Wishing for a speedy and successful ending of this Danbury affair, I am most respectfully yours,

"James Byrne, Agent."

I go now to the Journal for April, 1903, and I read from page 3, under the heading of "News from our Agents."

"Capitol, Montgomery, Alabama, March 22, 1903.

"To the Editor of the Journal."

2120 I omit the first paragraph.

"After canvassing the 16 hat stores in Columbus, and finding nothing in the 'L.' lines, I turned my attention to the labor unions, and found a very bad state of affairs."

Then I skip on to the following page, reading from the same report.

"At the meeting of the C. L. U. I made a special appeal to the retail clerks to get every clerk in Columbus to join their union, pointing out to them that the clerks' union was the most powerful union in the Federation, as

they could push union labeled goods or leave them on the counter or shelf, just as they saw fit. Mr. Rickley, their president, promised there and then that every clerk in Columbus would be personally solicited to join his union." 2121

"Leaving Columbus, I went to Augusta, Ga., on the 26th, and found a town of 39,441. My directory called for a central federation of trades, but when I got through canvassing the hat stores and started to look up the labor organizations, I found Augusta was worse off than Columbus. From 45 locals in 1901 they have dwindled down to 7 in 1903. The central body had gone out of existence over a year before, and there is no retail clerks' union at all. There used to be two painters' unions, white and black. The white union gave up their charter, but the colored union still remains. When I visited their meeting I found the hall packed, with three white men among them. The carpenters also had a union. They and the Typographical Union are about the only ones in Augusta that amount to anything. There are several gangs of men (all colored) who work on the street putting the telephone wires under ground." 2122

I skip the next. 2123

"There are 27 hat stores in Augusta, and one renovating store. While I found plenty of union hats from our best known fair manufacturers, I also found a large amount of non-union and job lots of hats. I noticed that a lot of people in Augusta seemed quite indifferent as to what kind or style of hat they wore, or how long they wore it.

"On March 5 I pulled out of Augusta, and landed in Savannah. Savannah is listed at 54,244, and is a splendid town, both for business and union labor. There are 24 retail hat stores and one wholesale house. The wholesale house has the firm name of Charles Marks, No. 25 Congress St. Mr. Marks told me he did not handle anything from the Danbury concern, but he does buy from Tenney and the Wearing Hat Company. He also handles a great many of our fair manufacturers' goods. In visiting the hat stores I found nearly all the clerks were union, and the hat clerks were only too glad to have me go through the stock." 2124

2125 "There are twenty retail stores and one wholesale house in Montgomery, the wholesalers being Rice, Weil & Co. Mr. Rice told me he was going to give up the wholesale business, as there was nothing in it for them. He said, to the best of his knowledge, they did not handle any of the Danbury firm's gods, but he would not be sure, as he did not do the buying, that being done by their superintendent, who is at present on the road. He said they handle both union and non-union hats in the wholesale house. But Mr. Rice himself has a fine clothing and hat store on Court Square, where all his clerks
2126 are union, and where he carries a big line of union clothing and hats. He is agent for the Dunlap here.

"All the other stores here carried union and non-union hats, but I failed to find any of the "L" goods among them. I find that unionism is of only very recent date here, there being less than twenty unions in the town, three or four of them are colored. The colored unions meet in the office of a Justice of the Peace. At the bricklayers' meeting, Friday night, I saw one of our aluminum signs hanging over the Judge's desk and asked
2127 the president where he got it. He said: 'Dot don came by the mail, boss."

"The Trades and Labor Council will meet Tuesday night. After meeting them I will leave for Selma.

"Respectfully,

"James Byrne, Agent."

Is that it?

Mr. Merritt:

I am going to read a few extracts from this same Journal relating to Stetson. Report of Henry T. Scollin, agent.

"Denver, Colorado, March 24, 1903.

2128 "Mr. John A. Moffitt.

"Dear Sir: Since I have returned to Denver from Omaha I have been as busy as a cranberry merchant. I have also a committee of six appointed from the various unions who will visit the merchants of this city, asking them to substitute some other make of hat to push, instead of the Stetson, which they are now advertising and pushing with so much vigor.

"It will surprise you to learn that there are two hundred thousand dollars worth of Stetson hats carried in

stock by the merchants of this city at the present time, and I feel that it is my duty to use every effort to stop the sale of this non-union product, in a city where labor is as strongly organized as it is in Denver. The action I have taken has only been done after much thought and studying from every standpoint of existing conditions. I found the only way was to take the bull by the horns, so I grabbed him, and I will not let go until I get at least one of the horns. My object is to stop the sale of Stetson hats in Denver, to give our boys a chance to do some work on a better class of goods. The merchants here will not pay forty-five dollars per dozen for a union made hat, but they will pay it for the Stetson without a murmur."

Then on page 10 from Omaha.

"Omaha, March 10, 1903.

"Mr. John A. Moffitt.

"Dear Sir: I am leaving Omaha for Denver, to complete the work started there by me before coming here. I have found the members of the different crafts well organized in this city. The Labor Temple erected by the labor organizations of this city is a splendid monument to the progressiveness of the Western wage-earner. I visited all of the merchants handling hats in this city and found a line of Stetson hats in every store. It was nothing more than I expected, therefore I was not surprised. About all of the cheap hats sold in Omaha were non-union, but the $2.50 and $3 hats were, in most cases, hats with our label in them. I was very much surprised to hear members get up in several of the meetings that I addressed and say that they always thought J. B. Stetson's hats had the label in them.

"The Retail Clerks are well organized in Omaha and some of the members gave me some information I very much desired. If there is one union that our organization should support more than another it is the Retail Clerks' Union. They are in a position to do more for our label than the others, because they can sell a union hat whether the customer asks for it or not, and by doing this the union hat manufacturer gets the benefit of the duplicate order. I was glad to see our label advertised in the Retail Clerks' International Advocate; it certainly speaks well for the judgment of our Executive Board, for I believe that an ad., well placed, is worth its space in

2133 gold. I will write you from Denver, letting you know how my work is progressing there. I hope to be able to show you some good results soon.

"Respectfully yours,

"Henry T. Scollin, Agent."'

And then I read from page 14 of the same Journal, April 1903.

"The War Is On—Don't Buy Stetson Hats.

"H. T. Scollin, Western representative of the United Hatters of North America, appeared before both Trades Assemblies in Denver last Sunday. He made an address,
2134 showing up the unfairness of the John B. Stetson Hat Company, its employment of women and children and the fact that it refuses to allow its employes to join the Hatters' Union. As a result the following resolutions were unanimously adopted by both Trades Assemblies:

"Whereas, the merchants of this city should be aware that, for many years past the greatest opponent of organized labor in the hatting world has been the firm of John B. Stetson & Company, of Philadelphia, Pa., and,

"Whereas, the said firm has refused absolutely to treat with or recognize in any way the organization of
2135 the United Hatters of North America, therefore be it

"Resolved, That we inform all of the merchants of this city, that it is the earnest request of all the labor organizations of this city that they purchase no more of the non-union product of the John B. Stetson Hat Co. until such time as said firm shall be granted the right to use the label of the United Hatters of North America, and be it further

"Resolved, That we will consider it a direct affront to all organized labor of the City of Denver for any merchants to advertise for sale any of the product of the
2136 John B. Stetson Hat Co., unless it be to close out the stock already on hand at the date of this resolution, and be it further

"Resolved, That a copy of this resolution be spread on the minutes of this meeting, and copies be prepared and delivered to all of the merchants in this city, and be it further

"Resolved, That a copy of this resolution, with the signature of each merchant attached thereto, who have signified their willingness to comply with the above men-

tioned request be framed and placed in a conspicuous 2137
place on the walls of the meeting halls of all of the labor unions in this city, until such time as its removal is requested by the president of the United Hatters of North America.

"The war is on for the exclusion of the Stetson hats from the market. Over $200,000 worth of these hats are carried in stock by merchants of Denver to the exclusion of the better class, and an active canvass will be made to have them cease handling the same. Let every member of organized labor do his share in this work, and see that only hats bearing the well known label of 2138
the United Hatters are sold and worn in this city. Committees from various labor unions will accompany Mr. Scollin as he calls on the merchants to get them to cease purchasing Stetson hats.

"Next week we will publish the names of all merchants who signify their willingness to comply with the above resolutions. Watch for it. Cut it out and paste it in your hat right over the label of the United Hatters.

"The firm of J. B. Stetson Company, hat manufacturers, were declared unfair and a fine of $2 was placed on any member purchasing a Stetson Hat.—Denver (Col.) 2139
Chronicle."

Here is the "We Don't Patronize" List on page 25 of this Journal, and under the head of "Hats" is the name of J. B. Stetson & Company of Philadelphia, Pa.

Then I read from the Journal for May, 1903, page 2, the report of F. Keegan, secretary of No. 18, under the heading of "Philadelphia, April 29, 1903." I will skip part of it.

"Mr. John A. Moffitt."

"The makers of Philadelphia were very much pleased to see the article in last issue of the Journal about the 2140
J. B. Stetson factory, and I am sure the organization will not make any mistake when they make an effort to unionize the factory, for I believe there never was any factory in the country which has done so much injury to the hatters as this concern so we wish Mr. Scullin all success in his undertaking, and if there is anything that the makers of Philadelphia can do to help his good work along we will be only too pleased to do it for him."

141 Then I will read from the report of H. T. Scollin from this same Journal for May, 1903, beginning on page 4.

"Mr. John A. Moffitt.

"Dear Sir: As I told you in my last letter, nearly all the merchants in Denver signed those resolutions. Since that time I have gotten two more.

"There were seven (7) merchants that refused to sign. They told me that they knew Mr. Stetson to be good to his employes, in fact he was a philanthropist. They had all received a copy of the Philadelphia press, sent out by the Stetson Hat Co., and also read the Eulogy in the
142 American Hatter. Well, I arranged a meeting to take place on last Tuesday evening at the parlors of the St. James Hotel, and asked all the merchants that had not signed the resolutions to attend. I gave them four (4) days' notice in advance of date. I had a committee to represent my organization composed of the following members: Ex-Lieutenant-Governor D. C. Coates and L. R. Moiser, of the A. L. U. Assembly; John J. O'Neill, President of the A. F. of L., and Max Morris, whom you know is fourth Vice-President of the A. F. of L., and myself. I had a good committee all right.

143 "I told the merchants I would have a copy of the Philadelphia press, also a copy of the American Hatter, and that we should take our side and they the other. They all promised to come, but in the meantime they got their heads together, and on the day of the meeting, when I went to see them, they all said they had an engagement for that evening. I said all right, and the next morning I pulled out for Louisville. I found on arriving at Louisville that the Miners' Union in Louisville and Lafayette both met on the same night (Thursday evening)."

144 "I did not find any Stetson hats carried in stock by any of the merchants in any of the three cities I visited. But I found a bunch of Tenny's in every store in every place. They were bought from Grove & Prior, jobbers in Denver. I told the Miners to look out for those goods; that they were being charged $2.00 and $2.50 for a hat that ought to sell for $1.25 to $1.50, and now I think those merchants will have some fun explaining themselves. On Friday evening I addressed a meeting of Miners at Superior, and Saturday morning I billed that place. My resolutions (with a slight change which I made

myself to suit the conditions of the places) were adopted and a committee appointed at each place to visit the merchants. There won't be any Stetson hats sold in those places and you can bet the merchants will look for the label now. I then pulled out for Denver again. On Sunday I appeared before both assemblies here and presented the enclosed resolutions, and the secretaries of both assemblies are sending them out for me. I may not be able to get them to sign, but I will keep them busy thinking. Enclosed also you will find a clipping from the Chronicle. I am sorry I could not have given more time to the article, but as I had to have the copy in by Tuesday evening, I had to hustle."

These are the resolutions referred to:

"To Certain Merchants of the City of Denver:

"The following resolutions were unanimously endorsed by the Assembly of A. L. U.; Sunday, April 12, 1903, and its secretary instructed to notify you regarding the action of this body.

"Whereas, Certain merchants in this city have seen fit to disregard the wishes of this assembly after being requested by this body to purchase no more of the John B. Stetson unfair hat, and

"Whereas, Said merchants have been waited on by committees from different labor unions of this city, and

"Whereas, Said merchants did refuse to meet a committee at the St. James Hotel, on April 7, after being notified four days in advance of said meeting; therefore, be it

"Resolved, That the Secretary of this Assembly is instructed to inform said merchants that unless this assembly is in possession of a written statement from them to the effect that they have decided to purchase no more of the John B. Stetson unfair hat at the next meeting of this Assembly, their stores shall be declared unfair and all labor organizations in this city shall be informed of the same and their names put on the unfair list in all meeting halls of all labor organizations in the city of Denver, and be it further

"Resolved, That we inform said merchants that we are not in the habit of adopting resolutions for the fun of the thing, but that we mean business.

"(John Doe, Secretary of Assembly of A. L. U.

"Arapahoe Street, Denver, Colo."

149 There is the "We Don't Patronize" list on page 19, running over on to page 20, and under the head of "Hats is the name of John B. Stetson & Company, Philadelphia, Pa.

Mr. Merritt:

I read just an editorial from July 1903 number of the Journal, page 5.

"There is a 'boycott' called the union label, which neither courts, militia, laws, or Pinkertons can touch. It will abolish sweat shops, scabs, unfair employers; it will mow a swathe like a McCormach reaper through the ills
150 labor complains of. It requires neither strike, picketing, nor trouble; just see that the goods you are going to buy has that label in it, or else you will not take them, and presto, the thing is done."

Now we will take up the depositions further, and I will read from the deposition of Melville E. Marsh.

"Appearances: Walter G. Merritt for Plaintiff. H. W. Taylor, Esq. for Defendants.

"MELVILLE E. MARSH,

151 a witness called in behalf of the plaintiff, being duly sworn testifies as follows:

"DIRECT EXAMINATION BY MR. MERRITT:

"Q. What is your residence, Mr. Marsh? A. At the present time, Lincoln, Nebraska.

"Q. How long have you lived there? A. I have lived there about three years, I think.

"Q. Are you engaged in business there? A. I am.

"Q. What is your business? A. I am a hat buyer
152 for Herman Brothers Company.

"Q. How long have you been acting in that capacity? A. About three years.

"Q. Are they wholesale dealers? A. They are.

"Q. Where were you in business prior to that time? A. I was with the Gate City Hat Company, Omaha, Nebraksa.

"Q. And is that Company also engaged in the business of buying and selling hats as whoelsalers? A. They are.

"Q. And were you a buyer for that concern? A. I was. 215

"Q. In your capacity as buyer, Mr. Marsh, for the Gate City Hat Company, did you determine the manufacturers from whom its hats were to be purchased? A. I did.

"Q. I take it from your answers that you were buyer for the Gate City Hat Company from 1902 to 1905? A. As near as I can remember it was about that time.

"Q. Can you state whether or not the Gate City Hat Company purchased hats from D. E. Loewe & Company during the period when you acted as its buyer? A. Yes, sir. 215

"Q. State as nearly as you can during just what period the Gate City Hat Company patronized D. E. Loewe & Company, the plaintiffs? A. Well, you mean from the time that I acted as buyer for them?

"Q. Well, did they purchase hats from D. E. Loewe & Company during all the time that you were buyer? A. Yes, sir.

"Q. Do you know how long prior to that time they purchased hats from D. E. Loewe & Company? A. I could not tell you definitely how long, but they bought hats of Loewe before I took the position as buyer. 215

"Q. And you cannot say whether that was a considerable number of years or just a short time? A. I cannot say as to that.

"Q. Now, you testified that they purchased hats from D. E. Loewe & Company during all the period that you were buyer; do you mean that they purchased hats from D. E. Loewe & Company during the whole period from 1902 to 1905? A. Well, up to the time I was asked to stop buying.

"Q. Then, I understand that at one time during the period when you were buyer for the Gate City Hat Company, you stopped buying from D. E. Loewe & Company? A. I did. 215

"Q. Do you know in a general way how long a time it was prior to your separation from that Company that you stopped buying from the concern of D. E. Loewe & Company? A. I could not tell you offhand, no.

:157 "Q. Well, was it a month, six months or a year—have you any idea in a general way? A. Please put that question again.

"Q. I will put the question in another way, Mr. Marsh. I will ask you how long, in a general way you continued with the Gate City Hat Company after you stopped dealing with D. E. Loewe & Company? A. Well, it was more than a year, I think.

"Q. You do not recall the exact year? A. I cannot, no.

:158 "Q. Well, would the record of purchases from D. E. Loewe & Company indicate what year it was? A. The last shipment that Loewe made us would give the date, I think, almost exactly, for the year.

"Q. I will ask you, Mr. Marsh, how you came to discontinue purchasing hats from D. E. Loewe & Company?"

Mr. Mulholland:

That is objected to, if the court please, for the reason that no time is fixed, as near as I can get this, no definite time, and it might go beyond the date of the writ in this case.

:159 The Court:

It will result in a date preceding the bringing of the suit.

Mr. Merritt:

Yes, your Honor. Mr. Loewe's books will show when this deponent stopped doing business with Mr. Loewe, and the deponent fixes that date himself as the date when all these things took place.

Mr. Mulholland:

We object to the answer on the same ground here-
:160 tofore stated, I think the court has ruled on that several times, on the ground that it is hearsay, and save an exception.

Mr. Merritt:

"A. The reason why I quit purchasing hats from Loewe was because I did not want to antagonize the union, as I was called upon by three delegates, representing some union there, I do not know which one; as near as I can recollect I think they said they were a cigar makers' union and were sent there by the United Hatters, from where I do not know.

"Q. I will ask you to state as nearly as you can whom these men represented themselves to be who came to visit you? A. As near as I can remember they represented themselves to belong to a cigar makers' union. 216

"Q. What did they state to be the object of their visit?"

Mr. Mulholland:

That is objected to, the answer; an exception.

Mr. Merritt:

"A. That they were notified that I was handling D. E. Loewe's hats, and that they were non-union goods, and they wanted us to discontinue handling them for that reason. 216

"Q. Give anything further you can remember of the conversation that took place."

Mr. Mulholland:

Objection and exception.

Mr. Merritt:

"A. Well, I immediately asked them how they knew I was handling D. E. Loewe's hats, and they claimed that there was not a shipment that went out of Danbury, Connecticut, that they did not know about.

"Q. Do you recall anything further that was said?" 216

Mr. Mulholland:

Same objection; exception.

Mr. Merritt:

"A. Yes; they told me that I had a shipment coming from Loewe, but at that time I had a shipment of Loewe's goods in the house, of which I told them, and I told them that was all the goods that were due me from Loewe; and they asked me if I would not return the goods, and I refused.

"Q. Was anything further said about the concern of D. E. Loewe & Company, except that it was a non-union concern?" 21

Mr. Mulholland:

Objection and exception.

Mr. Merritt:

"A. Well, they said it was a non-union concern, and that they were going to boycott non-union hats made by them.

"Q. Did you deal in any other lines of non-union hats at that time?"

165 Mr. Mulholland:

Objected to as immaterial; exception.

Mr. Merritt:

"A. Yes; I handled Waring hats.

"Q. And did you also handle Stetson hats? A. Yes, sir.

"Q. Did these men who visited you say anything about the Waring or Stetson hats? A. Not a thing.

"Q. Did they give any reason why they objected to your handling the goods of D. E. Loewe & Company and not object to your handling the goods of Waring or Stetson?"

166 Mr. Mulholland:

Objected to; exception.

Mr. Merritt:

"A. No; there was nothing mentioned regarding those three firms any more than what I have stated.

"Q. Mr. Marsh, did you ever receive any letters or written communications from any one concerning this matter? A. Not that I can remember of.

"Q. Did you ever receive any other visits besides this one which you have spoken of? A. Yes; I received a visit from a gentleman who claimed to have come from Denver, Colorado."

167 Mr. Mulholland:

Objected to; exception.

"Q. Did he come alone? A. He came alone.

"Q. Do you recall that man's name? A. No, sir, I could not.

"Q. Do you think you would know the name if you heard it? A. Well, I don't know whether I would or not; I would not be positive in the matter.

168 Mr. Merritt:

I will read 43.

"Q. And your concern stopped dealing with D. E. Loewe & Company at what time with reference to these two visits? A. Right after the first visit of the three delegates.

"Q. Would the date when the Gate City Hat Company stopped dealing with D. E. Loewe & Company place the date of these two visits within 6 months? A. Well, the last invoice from D. E. Loewe & Company, figuring

about 10 or 12 days after the invoice, would come pretty close to the time of the visit of the three men. 216

"Q. And the other visit, as far as you recollect, came within 6 months after the first visit? A. It came within 6 months after that.

"Q. Why did you decide to quit dealing with D. E. Loewe & Co.? A. Why, we thought it would be better to discontinue handling Loewe's hats than to antagonize the union because we had some union trade in the city and around about.

"Q. What made you think that you would antagonize them? A. The fact that they said they would not handle or would not use those non-union hats manufactured by Loewe. 217

"Q. Were the goods of D. E. Loewe & Company satisfactory or unsatisfactory as merchandise goes? A. They were satisfactory.

"Q. Have you given me all of the reasons why you discontinued dealing with them? A. I have."

Mr. Mulholland:

Pass the cross examination.

Mr. Merritt:

I am now going to read the depositions taken at Chicago, Illinois, on the 16th day of February, 1909. Present Walter G. Merritt on behalf of the plaintiff; Howard W. Taylor on behalf of the Defendants. 217

"JOHN M. LOWE,

a witness called on behalf of the plaintiff."

"DIRECT EXAMINATION

By Mr. Merritt:

"Q. Will you give your full name? A. John M. Lowe. 217

"Q. Will you give your age, residence and occupation? A. I am sixty-one years old, I live at the Kenwood Hotel.

"Q. In Chicago? A. Yes, sir, in Chicago; and I am in the wholesale hat and cap business.

"Q. What is the name of the concern that you are engaged with? A. Longley, Lowe and Alexander, an incorporation.

"Q. That is an Illinois corporation? A. Yes, sir.

"Q. How long have you been engaged in the hat business in Chicago? A. Do you mean as a corporation?

"Q. As an incorporation? A. Fifteen years.

"Q. Will you give me the present officers of the corporation? A. A. W. Longley is president, Gerard N. Alexander, vice president and I am secretary and treasurer.

"Q. Who determines from what concerns you shall buy your fur felt hats? A. Well, I always did all the buying myself until about six or seven years ago; more than that, until about seven years ago, I think.

"Q. Who has had charge of the buying since the time that you undertook the work? A. A gentleman by the name of Northway part of the time, and at present Mr. North.

"Q. For what period of time did Mr. Northway fulfill this function, as near as you can recollect? A. I think about between three and four years.

"Q. How long did you say that Mr. North has been doing that work? A. Mr. North, I think, has been with us as a buyer for about three years.

"Q. Did Mr. Northway ever hold any office in the corporation? A. No.

"Q. Or Mr. North? A. No.

"Q. And will you state whether or not they were subject to the directions of the officers of the corporation as to the concerns from which they purchased, if you chose to intervene? A. Certainly they were, yes.

"Q. Were you acquainted with the plaintiff, D. E. Loewe & Company? A. I never met Mr. Loewe personally, no, sir.

"Q. Has your concern ever done business with them? A. They have, yes, sir.

"Q. Are they doing business with them today? A. No, sir.

"Q. Can you tell me approximately when they ceased doing business with D. E. Loewe & Company, or when they made their last purchase from D. E. Loewe & Company? A. The last purchase was made the latter part, I think, of 1902.

"Q. And was the business transacted with the plaintiff prior to that time more or less continuous? A. Yes.

"Q. Or was it simply a chance bill? A. No; we 2177
bought goods for several years of them, some years more than others.

"Q. But you had been regular patrons prior to that time? A. Yes, sir.

"Q. Were the goods satisfactory? A. Yes, sir.

"Q. I will ask you why your concern ceased buying from D. E. Loewe & Company?"

Mr. Mulholland:

That was not answered.

Mr. Merritt:

There is an objection about lack of knowledge, and 2178
then I put this question:

"Q. Do you know why your concern ceased buying from D. E. Loewe & Company? A. Yes, I do.

"Q. I will ask you to tell me the reason."

Mr. Mulholland:

That answer is objected to.

The Court:

You may read it.

Mr. Mulholland:

Exception.

"A. Some time in the year 1902 I think it was, I had 2179
purchased or given an order to Loewe & Company for some goods, and a delegation from the Hatters' Union, two gentlemen, came out to see us, and said that they understood we had been buying goods of Loewe, and they wanted us to cancel the order we had given Mr. Loewe. We told them that the order had been placed in good faith and we felt that we would let Loewe & Co. fill the order. After considerable talk they finally threatened that unless we did cancel the order they would tie up our factory here—I think that is the word they used, tie it up or
call out the men; but after considerable talk they finally 2180
decided that if we would agree to discontinue buying goods of Loewe & Company, why, they would let our factory run undisturbed, which we agreed to. Later, however, there was a little order placed by Mr. Northway, who knew nothing about this transaction, and when we found out, or when I found out that Mr. Northway had placed this order, we canceled it, but we did receive, I think, a little bill before the cancellation of $112.00. Those were received in March, 1903."

2181 "By Mr. Taylor:

"Q. This small bill bought by Mr. Northway was subsequent to this time? A. Yes; subsequent to this time. I don't know how much of an order Mr. Northway placed, but we received, I think, about $112.50 and the balance of it we cancelled.

"By Mr. Merritt:

"Q. And the goods represented by this last bill of $112 were the last goods you received from D. E. Loewe & Company? A. The last goods we received from Loewe, I think they were the last.

2182 "Q. Do you remember what time of the year it was that these gentlemen called on you? A. No; I cannot recall the time of year.

"Q. Was it in the spring or in the fall? A. My impression, it was some time during the summer or fall.

"Q. Do you remember the names of these gentlemen? A. I do not.

"Q. Do you know whether either of them were local men in Chicago? A. That I could not tell you. My impression is they were from the east, or said they were.

"Q. Who did they represent themselves to be? A.

2183 The Hatters' Union.

"Q. Did they hand you any cards or literature of any kind? A. I don't remember about that.

"Q. Have you given me as nearly as you can the full conversation that took place? A. Yes; as near as I can now; of course, it was quite a long conversation.

"Q. But that is the best of your recollection? A. That is the gist of it, yes.

"Q. Was anyone else present at the interview representing your concern? A. Mr. Longley.

"Q. Where did the interview take place? A. In

2184 our office, 195 Adams street.

"Q. Was anything said about any possible effect upon your selling business if you continued to purchase goods of D. E. Loewe & Company?"

Mr. Merritt:

"A. I don't think there was anything said at that time."

Mr. Merritt: 2185191

"Q. Is this the only interview that you have in mind which took place in your store, or in Chicago? A. Regarding Loewe & Company?

"Q. Regarding this matter? A. No; I had an interview when I was in New York with Mr. Moffitt, I think, the president of the Hatters' Union.

"Q. Is this the only interview in Chicago or at your store? A. Yes; that I can recall, yes.

"Q. Now, tell me where it was that you saw Mr. Moffitt in New York? A. It was at a restaurant on West Third street, between Mercer and Greene streets. 2186194

"Q. Was the meeting of your seeking? A. No; some gentlemen brought Mr. Moffitt up to where I was eating at the table at lunch, and introduced Mr. Moffitt to me.

"Q. Who were you lunching with, if you recall? A. I hardly recall, but my impression at present, I would say that John Weber was one of them. I won't be positive about it, though.

"Q. And was Mr. Moffitt brought up to your table where you were lunching? A. Yes, sir.

"Q. Do you recall who it was introduced him? A. 2187951
No, I do not; in fact, I could not locate the gentleman at the time. He evidently knew me, but I could not recall who he was. His face was familiar and he introduced Mr. Moffitt to me.

"Q. You don't know whether it was a manufacturer or a laboring man? A. I could not say, no.

"Q. Tell me if you will what Mr. Moffitt said to you at that time? A. Mr. Moffitt asked me if we were buying goods of D. E. Loewe & Company, and I told him that we had bought goods of them; that I did not think we were buying anything then. He then said he wanted me 2188
to write a letter to Mr. Loewe, instructing him that any goods we bought of him he must put the union label in them. I then told him that I did not feel at liberty to write Mr. Loewe; that I never even met him personally, was not personally acquainted with him, and it was not in keeping with my sense of business ethics to write to people and tell them how they should conduct their business. But he was very insistent upon it and he said —he first said: 'I believe you claim to be a friend of union

2189 labor,' and I told him that we had a factory of our own in Chicago and employed union labor there, and he could draw his own conclusions from that. He was then very insistent that I write Mr. Loewe this. Well, I told that I had not bought any goods of Mr. Loewe, but when I wanted union goods I went to union factories to buy them, and when I wanted non-union goods I went to non-union factories. He then stated that he wanted me to write Mr. Loewe anyway, that even if I was not buying any goods of him that I would require that, and if I did not write him to that effect, why, he should take the label 2190 away from us in Chicago at our factory.

"Q. Have you given me as far as you can, all of the conversation? A. I can give you my reply if you would like it.

"Q. I should like to hear your reply? A. Of course, I was getting a little bit excited myself at that time from the manner in which he broached the subject to me, and to use my exact words, I told him that he could go to hell with his label, that we could probably get along without it.

2191 "Q. Is that all of the conversation as you recollect it? A. That is the substance of it, yes, sir.

"Q. Did Mr. Moffitt make any further reply? A. I cannot reply. He said something, but I cannot recall what it was.

"Q. The interview ended then? A. Yes.

"Q. Were you during this period when you received this visit from these two men concerning D. E. Loewe & Company, and when you had this conversation with Mr. Moffitt concerning D. E. Loewe & Company, purchasing fur felt hats from any other concern that did not use the label? A. O, yes.

2192 "Q. What other concerns, Mr. Loewe? A. Well, Waring & Co., quite largely, Yonkers, N. Y.

"Q. Did you purchase from Marshall & Brothers? A. Yes.

"Q. Fall River? A. Yes, and Thom & Bayley.

"Q. Did you purchase from any other Reading concerns? A. Yes, Hendel; in fact, there are two Hendels there in Reading that we did buy goods from.

"Q. And Alexander in Reading? A. Alexander, yes.

"Q. And all these concerns which you have named did not use the labels? A. They did not. 2193

"Q. I will ask you whether or not when these two gentlemen visited you here in Chicago as you testified, anything was said by them about not purchasing the goods of any of these other particular concerns?"

Mr. Mulholland:

That is objected to as leading and suggestive.

The Court:

You may read it.

Mr. Mulholland:

An exception. 2194

Mr. Merritt:

"A. No; there was nothing said.

"Q. I will ask you whether or not at the time Mr. Moffitt interviewed you in New York, whether he mentioned the name of any of these other non-union concerns outside of D. E. Loewe & Company? A. He did not.

"Q. Can you tell me whether you or your concern, if you know, have ever received any letters or circulars asking you not to buy goods of D. E. Loewe & Company? A. I can recall one instance.

"Q. Have you that letter? A. No, I have not. 2195

"Q. Do you know what has become of it? A. I do not.

"Q. Was it typewritten, written or printed document? A. I think it was written. Of course, I cannot recall exactly, so I would not say. I cannot remember. It may have been typewritten.

"Q. Do you recall anything about it or the contents of it?"

Mr. Mulholland:

That is objected to.

Mr. Merritt: 2196

I will skip that for the time being.

"Do you know from where that letter purported to come? Or by whom it purported to be signed? A. The letter that we received?

"Q. Yes? A. I can remember the town but not the firm's name. It was from Quincy, Illinois.

"Q. Do you know to whom the letter was addressed? A. It was addressed to Longley, Low & Alexander.

2197 "Q. From whom did it come? A. I say I cannot recall the firm's name. Some retail concern in Quincy, Illinois.

"Q. Did you ever receive any letters or circulars purporting to come from any union concerning this matter? A. I cannot recall any.

"Q. Do you know of your own knowledge, Mr. Lowe, whether or not either Mr. Longley or Mr. Alexander was ever interviewed concerning this same matter? A. Do you mean any other interview that I had?

2198 "Q. In addition to the interview concerning which you have testified? A. Mr. Longley was present at the first interview in our office, and my impression is that Mr. Alexander was present also, but I remember Mr. Longley positively being present.

"Q. Was Mr. Eugene Connett present at that time? A. No.

"Q. I mean Mr. Eugene Connett, Junior? A. I know who you mean.

"Mr. Merritt:

That is all."

Mr. Mulholland:

2199 Pass the cross eamination.

Mr. Merritt:

I now read the deposition of

NAHUM M. TRIBOU,

a witness called on behalf of the plaintiff, residing in the city of Chicago.

"Q. Will you give your age, residence and occupation? A. LaGrange, Illinois, forty-seven, and I am with the corporation of Longley, Lowe and Alexander, in the

2200 capacity of general clerk.

"Q. You have heard the testimony given by Mr. Lowe, have you not, Mr. Tribou? A. Yes.

"Q. I will ask you if you ever had any interview with any men outside of these connected with the concern of Longley, Loewe and Alexander concerning D. E. Loewe & Co.? A. I have not.

"Q. I show you a letter, Mr. Tribou, dated February 24th, 1903, addressed to Messrs. D. E. Loewe & Co., Danbury, Connecticut, and purporting to be signed by

Longley, Loewe and Alexander, and I will ask you if you have ever seen that letter before (handing witness letter)? A. Yes, sir. 2201

"Q. Can you tell me whose handwriting the signature is in? A. It is a stamp of my own.

"Q. Did you write that letter? A. In my opinion I dictated the letter.

"Q. Do you remember the circumstances surrounding the writing of that letter, and how you came to write it? A. It was at an interview with either Mr. Longley, Mr. Lowe or Mr. Alexander, I cannot remember just which. 2202

"Q. Did one of those gentlemen instruct you to write this letter? A. I wrote the letter after an interview with them.

"Q. Was the letter written on your own initiative? A. Not alone.

"Q. Well, I will ask you what other facts besides your own initiative influenced you to write that letter? A. The discussion with the member of the firm referred to in regard to our relations with the union and D. E. Loewe & Co.

"Q. Then this letter was written as a result of that conference; is that true? A. It is. 2203

"Q. Were you familiar with the attitude of Longley, Lowe and Alexander concerning the matters contained in this letter? A. So far as I had knowledge of them.

"Q. Did you have knowledge as to the attitude of that concern after this conference? A. Some knowledge.

"Q. Did you have knowledge covering the matters contained in this letter? A. I did.

"Q. And I will ask you whether this letter correctly states the attitude of that concern on this matter? A. It does." 2204

Mr. Merritt:

I offer the letter.

Mr. Mulholland:

To which we object.

The Court:

Oh, I think it is admissible. That is along the lines that I have already stated.

2205 Mr. Mulholland:

An exception.

Mr. Merritt:

The letter is dated Feb. 24, 1903. "Messrs. F. E. Loewe & Co., Danbury, Conn.

"Gentlemen: We regret very much that we are obliged to ask you not to ship goods ordered through your Mr. Reed or any goods until further notice. We have been called upon by the Hatters' Association of North America who state that if we receive any more
2206 goods from you that they will take the label out of our factory.

"You will at once recognize the embarrassing position that we are placed in, it being the middle of the season, and our Mr. Longley and Mr. Lowe both being in California, we do not feel justified in fighting the Union under these circumstances. We trust you will appreciate the circumstances, and we shall be pleased to reciprocate your courtesy at the earliest opportunity. Will you kindly treat this communication in strictest confidence, and write us an acknowledgment at your earliest convenience. Yours
2207 very truly, Longley, Lowe & Alexander."

Mr. Merritt:

I now read depositions taken in Boston on the 9th day of February 1909, and I read first the deposition of

JOHN REDING,

a witness called on behalf of the plaintiff.

"Q. What is your name? A. John Reding.

"Q. Age? A. 63.

2208 "Q. Occupation? A. Wholesale hat and cap dealers.

"Q. How long have you been engaged in the wholesale hat and cap business? A. 41 years.

"Q. Always in Boston? A. Yes, sir.

"Q. And always under what name? A. The house of Moore, Smith & Co. until 1892; then a stock company was formed, the Moore, Smith Company.

"Q. Did that concern ever deal with the plaintiff D. E. Loewe & Company? A. Yes, sir.

"Q. And during what period have they purchased hats from D. E. Loewe & Co.? A. I think the first we bought of them was in 1900. 2201

"Q. Are you still buying of them? A. No, we haven't bought any goods lately of them.

"Q. How long ago did you stop buying of them? A. (After examining paper) Well, I think I did buy some goods in 1908, in the spring of 1908. We bought $18.75, and in the fall $12.

"Q. Were you ever visited by anyone asking you not to deal with D. E. Loewe & Co.? A. Well, I was visited by a delegation. While they might not directly ask 2210 me not to deal with them, they thought it would be for our interest not to.

"Q. Can you tell me who was in this delegation? A. No, sir; I cannot. I should say—I understood after they went out that one or two of them were workmen at Guyer's.

"Q. How many were there in all? A. Three.

"Q. Did they state whom they represented? A. Well, they represented the Hatters' Union. They came into the store and said: 'You are buying goods of D. E. Loewe & Co., aren't you?' Of course, I knew who they 2211 were. They began to talk with me a little. They said: 'You received some goods today from them, didn't you?' I said, 'No, sir; I haven't.' Well, he says, you will receive them because he knew they were put on an express wagon the night before.

"Q. Would you know the man's name if you heard it? A. No; I wouldn't swear anything about it; it is so long ago, and I didn't pay much attention to it; didn't care anything about it.

"Q. Do you recall when this visit took place? A. No, sir. 2212

"Q. Is it the only visit you ever received of this kind? A. I had a visit once—I think the time Fred Berg & Co. had their trouble.

"Q. This is the only visit you received concerning D. E. Loewe & Co.? A. I think so.

"Q. Did you ever meet Charles Morris? A. Not that I know of; that is, not to know him by name.

213 "Q. Did you notice the men who were in here enough to be able to say whether they were any of them, the men who called on you?"

There were certain people in the room at the time of taking the depositions.

"A. I couldn't swear to it, Mr. Merritt.

"Q. Can you give me the year when this visit took place? A. No, sir.

"Q. I show you a letter which purports to be signed by you and ask you if that is your letter? A. (After examining letter) Yes, sir, that is my letter.

214 "Q. Now reading that letter for the purpose of refreshing your memory, I will ask you if you can testify when you were visited by these various people? A. (After reading letter) Well, it must have been about that time, of course.

"Q. What date does that letter bear? A. February 13, 1903."

The letter is offered.

Mr. Merritt:

The letter is dated February 13, 1903.

"Office of

215 Moore-Smith Company,
250 Davenshire St.

"Boston, Feby 13, 1903.

"D. M. Loewe & Co.

"Gents:—Will you please hurry the 2 doz. ord. 2-5 for 'The Ideal Haberdasher.' Send just as soon as possible. Please give them preference on orders and get here as soon as possible. We had a call from one of the United Hatters Assn yesterday regarding your goods. Said we received 2 cts. from you, which would indicate that they are watching your shipments.

216 "I said very little to him.

"Yours truly,

"(Signed) J. Reding.

"(Continues reading deposition.)

"Q. I will ask you if you have given me, as far as you can recollect it, the conversation which took place between you and these men who visited you concerning D. E. Loewe & Co.? A. Well, when they spoke to me about using Loewe's goods I said to them, We use some of them. Well, he said, you received some goods today.

didn't you? I told him, No, we did not. Well, he says, you will receive some; that he saw them put on to the express last night, or knew they were put on to the express last night. And later on the goods came into the store. I cannot just exactly tell the conversation because it was long ago; but they intimated to me that it would be better for us not to use the goods. I told them, We have some goods here in the store that we have bought, and some on orders, goods that are sold, and I proposed to use these goods. They did not object so much to our selling what we had, providing we didn't buy any more. They did say they thought it would be for our interest not to use the goods.

"Q. State whether or not you found the merchandise manufactured by D. E. Loewe & Co. satisfactory as a whole? A. Yes, sir.

"Q. Did this visit have any effect on your purchases from D. E. Loewe & Co.? A. Yes.

"Q. What effect? A. I stopped using the goods; stopped putting the goods into stock, and run out of them; sold what I had. We didn't use any of Loewe's goods to speak of, to sell here in New England, after the fall of 1902. We used some in 1903, 1904 and 1905 for our Western trade. I had just got some samples for our Western trade and we sold a few of those goods; but New England trade we stopped on entirely."

Mr. Mulholland:

Pass the cross examination.

Mr. Merritt:

I would like to read a little of the cross examination. First there is a question and answer on re-direct which is perfectly self-explanatory by itself which I would like to read.

Mr. Mulholland:

That we object to.

Mr. Mulholland:

Save an exception on the ground that it is not proper re-direct examination.

The Court:

I exercise the discretion of the court in that matter.

Mr. Merritt:

"Q. I will ask you to testify in brief, Mr. Reding, why you reduced your purchases from D. E. Loewe & Com-

2221 pany? A. Well, I have a very good New England trade in the large manufacturing towns, and I knew that the labor unions had reported—had been to some of the customers and stated that unless we stopped selling Loewe's goods those same people would be boycotted in the town where they live. We couldn't afford to have anything of that kind happen, and rather than do that I would sell some other goods."

Then I read question 115 on the re-cross examination.

The Court:

Well, if you want to read that, I will exercise my dis-

2222 cretion and permit you to.

Mr. Beach:

Then we desire to read the balance of the re-cross that follows.

Mr. Merritt:

"Q. Well now, coming back to the first proposition —you weren't bulldozed or intimidated? A. Well, yes, I was, because if I kept the goods and sold them there would be trouble."

Mr. Beach:

It goes on this way: "Q. You said that these men

2223 stated— A. That it would be for our interest—

"Q. Didn't you state that while they might not directly ask you not to deal with them, meaning Loewe & Co., they thought it would be for your interest not to? A. Yes.

"Q. They simply requested you, didn't they, not to handle the goods? A. Well, you can put it anyway you want.

"Q. Well, was it any more than a request? A. Well, I can't say it was a threat.

"Q. But isn't it true, Mr. Reding, that you knew that

2224 the labor sentiment in those Massachusetts towns and the manufacturing towns of Connecticut was very strong? A. Yes.

"Q. And that you retailers would have hard work in working off non-union goods in Massachusetts and the Connecticut towns? A. Yes.

"Q. And you knew also, as a business proposition, that it would be better to handle the union goods; Mr. Loewe's goods weren't sold distinctively as Mr. Loewe's goods? A. Not particularly.

"Q. He went under the class of non-union goods? A. 2225
Yes.

"Q. And in these sections of Massachusetts and the manufacturing centers of Connecticut there was a great call for union label goods; is that true? A. There was in the manufacturing towns; I don't deny that at all."

Mr. Merritt:

I now read from the deposition of

EUGENE F. REILLY,

Mr. Mulholland: 2226

This, if the court please, is one of the depositions to which our motion to suppress was addressed. I think it is the same situation exactly as what the court has ruled on.

Mr. Merritt:

"Q. What is your name? A. Eugene F. Reilly.

"Q. Will you give your age? A. 42.

"Q. Occupation? A. Hat finisher.

"Q. Residence? A. 13 Union Avenue, Jamaica Plain.

"Q. Are you a member of the United Hatters of North America? A. I am. 2227

"Q. Of what local are you a member? A. Local 6, of Boston.

"Q. That is the Local Finishers' Union of Boston? A. The Local Finishers' Union; there are two locals.

"Q. How long have you been a member of that local? A. About twenty years.

"Have you ever held office in that local? A. I have.

"Q. What office? A. I have held the office of President.

"Q. Is that the only office you have held? A. No; Secretary.

"Q. State when you were President? A. Well, I 2228
couldn't give it to you direct. I was President probably nineteen years ago for the first time. Well, say four times at different periods.

"Q. Were you an officer in 1903? A. That I couldn't answer; I don't remember.

"Q. When were you Secretary? A. From December, 1904, to the present, inclusive.

"Q. Are you Secretary now? A. At the present time; yes.

2229 "Q. Does that association hold meetings frequently? A. Monthly meetings.

"Q. About how many do they usually have present at these meetings? A. Well, I couldn't state.

"Q. You attend pretty regularly, do you, yourself? A. Yes.

"Q. Do you keep records of what takes place at those meetings? A. I do.

"Q. That is part of your duty as secretary? A. That is part of my duty as secretary.

2230 "Q. How far back do the records of the association run, referring to Local No. 6? A. They run back—Oh, back to 1898, we will say I couldn't give the exact date, but back to there anyhow.

"Q. You have brought these records here this morning? A. Yes.

"Q. Just what records do the documents you have brought cover? A. It covers the ordinary tranactions of a meeting, either a lodge or a trade union.

"Q. For what time? A. I previously stated about what time.

2231 "Q. You have brought all the records you have? A. I have, yes.

"Q. Will you go and get them? A. (The witness leaves the room and returns with books and produces records.)

"Q. May I examine those books? A. What portion of the books do you wish to examine?

"Q. I want to examine the minutes covering the years 1902, 1903 and 1904. A. I should say we have nothing to conceal in our books here, but I am not willing you should examine any other period than the time covered by the request of counsel.

2232 "Q. Well, counsel requests that he be allowed to examine them for the years 1902, 1903 and 1904."

Then Mr. Talor objected unless the examination is limited to the issue between the parties to this action. I will not read it, I guess.

"(Witness hands a book to Mr. Merritt).

"Q. This book which you have handed me covers the minutes of the meetings of Local Finishers' Union No. 6 for what period, Mr. Reilly? A. From September 10, 1903, to November 9, 1905. I should say the books run to the present time.

"Q. I will ask you whether this book contains a full and complete record of the transactions of the meetings of that Local No. 6? A. It does. 2233 241

"Q. And this is the official record? A. Sure.

"Q. I will ask you what meeting is covered by the records on page 3 of that book; that is, the date of the meeting? A. Well, September 10, 1903, I presume.

"Q. Were you present at that meeting? A. I don't know; it is so long ago.

"Q. I will ask you to read to the stenographer from page 3 of this book, beginning with the words 'Any member.'

"Mr. Taylor:

Objected to as to form." 2234 242

"Mr. Mansfield:

(He appears for the witnesses.)

"I would like to know if the magistrate will grant me two or three minutes talk with Mr. Morris and Mr. Taylor.

"Mr. Hunt:

You mean suspend the hearing?

"Mr. Mansfield:

For about three minutes.

"Mr. Merritt:

I have no objection to your request, Mr. Mansfield. I would like to get time to look at these books a little longer." 2235 13

Then there was an adjournment to 2 o'clock.

"AFTERNOON SESSION.

"Mr. Mansfield:

I want to enter my appearance now for Eugene F. Reilly, Charles Morris, and William Wixted, and as counsel for the witness and Mr. Morris and Mr. Wixted, I wish to state that I have advised my clients not to exhibit the contents of the books and records which they have brought with them and produced, on the ground that the subpoena recites as follows: 'To bring with him and produce at the time and place aforesaid all minute books, records or documents, of any kind, whatsoever belonging to the United Hatters of North America, Local Union No. 5 (and No. 6) now in his possession and custody, or under his control, relating to or showing any action taken or resolution passed by said United Hatters of North America, Local Union No. 5 (or No. 6) concerning the said plaintiff, Dietrich E. Loewe, doing business under the name of D. E. Loewe & Company, of Danbury, in the State of Connecticut, from January 1, 1901 to January 1, 1906, 2236 4

2237 inclusive, and all letters or communications, written or printed, of any kind whatsoever received from any member or officer of the United Hatters of North America, or any other labor union or organization, or any member or officers thereof, in regard to the said plaintiff Dietrich E. Loewe, doing business under the name of D. E. Loewe & Company, of said Danbury.' And these witnesses have no records, papers, communications, minutes, or memorandum of any kind coming within the purview of this subpoena; and for the further reason that the contents of the records, which they have produced, if they should testify to the same, might tend to incriminate them.

2238 "Mr. Taylor:

You mean on other matters outside of the subpoena?

"Mr. Mansfield:

Yes, to incriminate them on other matters. And I direct you now, Mr. Reilly, and the other two gentlemen here, that you have the right to refuse to testify to anything which may incriminate you.

"Question 35 read by the stenographer as follows: 'I will ask you to read to the stenographer from page 3 of this book, beginning with the words 'Any member.'"

Mr. Mulholland:

2239 The answer is objected to.

Mr. Merritt:

"Mr. Mansfield: Do you desire he should answer that?

"Mr. Merritt:

That is the question to the witness.

"Mr. Mansfield:

Well, I desire to instruct him that he is not obliged to answer it."

Mr. Mulholland:

We object to the answer.

The Court:

2240 Read it.

Mr. Mulholland:

Now may we have our exception not only to this answer, but all of the other answers of the witness of a like character, to save the necessity of interruption?

The Court:

Yes.

Mr. Merritt:

"A. I decline to answer because it might tend to incriminate me.

"Mr. Taylor:

Counsel for the defendants desire to place upon the record that they disclaim any control over this witness or any responsibility for his refusal to testify. 2241

"Q. Now, Mr. Reilly, I will ask you to let me examine that book again which you were showing me before we adjourned.

"Mr. Mansfield:

I will interpose an objection there.

"Q. Will you allow me to take the book? A. No.

"Q. Why not?

"Mr. Mansfield: 2242

Direction of counsel? A. Direction of counsel, Mr. Mansfield.

"Q. You already placed that book in my possession to examine; I wish to examine it further, Mr. Reilly, for the purpose of reading from page 3 what you have refused to read. May I take it for that purpose?

"Mr. Mansfield:

You are already acquainted with your rights under the matter, Mr. Reilly.

"The Witness:

Not entirely. I would like the instructions of counsel. 2243

"Mr. Mansfield:

Well, I direct you that you need not give up the books unless you wish to.

"A. I refuse to give up the books.

"Q. You showed me a book which showed minutes beginning in September 1903. You have also another book there; I will ask you what that book is?

"Mr. Mansfield:

I object. The objections is that he can still refuse under his privilege.

"Q. And that is the privilege that it would tend to incriminate you? 2244

"Mr. Mansfield:

I gave the other objection too; that it did not come within the purview of the subpoena.

"A. I refuse because it does not come within the purview of the subpoena.

"Q. Then you mean that that other book doesn't cover the dates of the records called for by my subpoena?

"Mr. Mansfield:

2245 I object. I think the question is already sufficiently answered.

"A. The question is already sufficiently answered.

"Q. I will ask you if you are ready to testify that neither of those books cover the records called for by the subpoena?

"Mr. Mansfield:

The subpoena speaks for itself. It is a matter of construction of law and of the fact.

"A. The subpoena speaks for itself.

2246 "Q. But I am asking what the books contain; I am familiar with what the subpoena contains. I ask you whether the contents of those books do not cover the dates of the meetings called for by the subpoena?

"Mr. Mansfield:

I object to the question. I think that whether or not these records cover the dates isn't material at all. The question is whether or not there is any matter in the books that relates to the matter in controversy as called for by the subpoena.

"A. The question is not covered by dates but matter to be covered by subpoena.

2247 "Q. Have you examined the books page for page? A. Yes.

"Q. That is, referring to both these volumes which you have with you? A. Yes.

"Q. And both these volumes the minutes of the meetings of Local No. 6? A. Yes.

"Q. And for what dates?

"Mr. Mansfield:

Hasn't that question been answered this morning? I think that is something for the magistrate to rule on. I think that comes within his powers, a question of that kind.

2248 "Mr. Hunt:

I cannot rule.

"A. I couldn't exactly tell the dates without consulting the books.

"Q. Well, consult the books and then tell me. A. (After looking at the contents of books) The dates go back to 1884 from the present day.

"Q. That is you have the records of the meeting of Local No. 6 from 1884 continuously down to the present day? A. To the best of my knowledge.

"Mr. Merritt:
That is all.
"Mr. Mansfield:
You are excused, Mr. Reilly.
"Mr. Taylor:
Mr. Reilly, are you declinations based solely on the advice of your counsel, Mr. Mansfield?
"The Witness:
Yes."
Adjourned to Monday morning at 11:15.
Monday, September 9th, 1912, 11:00 A. M.
Mr. Merritt:
Your Honor I would like to interrupt the depositions long enough to take the testimony of several show witnesses who are here this morning.
The Court:
Yes.
Witness,

GEORGE W. FLINT,

Sworn by Mr. Carroll.
The Clerk:
What is you name? A. George W. Flint.

EXAMINED

By Mr. Merritt:
Q. Your full name is? A. George W. Flint.
Q. Mr. Flint, you live in Danbury, do you not? A. Yes, sir.
Q. And you are the publisher of the Danbury News? A. Yes, sir.
Q. That is a daily paper published in Danbury, Conn.? A. Yes, sir.
Q. Is that the only daily paper published there? A. Yes, sir.
Q. Have you also a weekly which issue bears a different title? A. Yes, sir.
Q. What is the title of the weekly issue? A. Danbury News.
Q. What is the title of the daily issue? A. Danbury Daily News.
Q. How long has that paper been in existence? A. Since 1870; the Danbury News.

2253 Q. How long has the Danbury Daily News been in existence? A. Since 1883.

Q. How long have you been the publisher of it? A. About twenty years.

Q. Can you tell me approximately what was the circulation of that paper in the years 1900 to 1903? A. About fifty-five hundred.

Q. Is that circulation largely in the Town of Danbury? A. Yes; four-fifths of it.

Q. Some circulation in Bethel? A. Yes, sir.

2254 Q. How far is Bethel from Danbury? A. Three miles.

Q. Connected by trolley cars? A. Yes, sir.

Q. And about what is the circulation in Bethel of your paper?

Q. In the years 1900 to 1903? A. I should say about four hundred.

Q. Does the same circulation apply to the Danbury Daily News and the Danbury News? A. Well, the Danbury News is a little larger than the Daily News.

Q. The Danbury News is a little larger than the Daily News? A. Yes, sir.

2255 Q. Well, what is the difference? A. Probably be a thousand more.

Q. Then the figures which you give—fifty-five hundred—apply to the Danbury News? A. I am speaking about 1900, fifty-five hundred.

Q. And down to 1903? A. Yes.

Q. It is approximately the same for those three years? A. All three years.

Q. And the circulation of the Danbury Daily News was about, during that period? A. That is fifty-five hundred.

2256 Q. And the circulation of the Danbury News was then about sixty-five hundred? A. About sixty-five hundred; yes, sir.

Q. And would Bethel have about the same proportion in regard to both papers? A. Just about the same.

Q. As I understand you, Mr. Flint, it is practically the same type, except you make a special weekly issue; isn't that true? A. We combine the Daily and Weekly on Wednesday; two editions.

Q. There is no other daily paper in Danbury? A. 2257
No, sir.

Q. Is there any other daily paper published in Bethel? A. No, sir.

Q. Is there any other weekly paper published in either Danbury or Bethel? A. No, sir.

Q. Are you acquaited with the population of Danbury and the population of Bethel? A. At that time?

Q. At that time? A. Well, Danbury was about twenty thousand at that time, and Bethel about five thousand, I think; I couldn't say positively.

Q. That applies to the entire township of Danbury? 2258
A. Yes, sir.

Q. The city isn't as large? A. I think the city was about sixteen thousand at that time.

Mr. Davenport:

Well the town of Bethel? A. Well, I think five thousand covers the whole town. I am not quite sure of those figures.

By Mr. Merritt:

Q. Now, you have produced here in answer to a subpoena duces tecum certain issues of the Danbury News, have you not? A. Yes, sir. 2259

Q. And certain issues of the Danbury Daily News? A. Yes, sir.

Q. And they were all taken from the files of your office? A. Yes, sir.

Q. And they are the regular issues of your paper issued upon the dates which they bear? A. Yes, sir.

CROSS EXAMINATION

By Mr. Mulholland:

Q. Mr. Flint, what, if any, official position did you 2260
occupy with the Danbury News during the years 1900 and 1903? A. Publisher.

Q. Were you the President of the Company, or Vice President, I mean? A. It is a partnership. I am one of two partners.

Q. How many persons are connected in this partnership, or associated? A. Two.

Q. And who is the other partner? A. W .L. Smith.

2261 Q. I believe that your attention, when you were last a witness in this case, was directed to a certain article published in the Danbury News on a certain date? A. Yes, sir.

Q. Is that correct? A. Yes, sir.

Q. I will ask you if you knew that that article was published in your paper prior to the time that your attention was called to it, in connection with this law suit? A. I don't think so.

Q. You don't read all of your paper every day, do you? A. No, sir.

2262 Q. And don't pretend to know every day everything that was published in the paper? A. No, sir.

Mr. Mulholland:

That is all.

RE-DIRECT EXAMINATION

By Mr. Merritt:

I just want to call his attention to the article which you examined him about.

Q. Now, I read you this article, Mr. Flint, from the 2263 Evening News for July 25th, 1902, and ask you if that is the Article that you referred to in answer to Mr. Mulholland's question?

Mr. Mulholland:

To which we object. You don't have to read the article to have it identified.

Mr. Merritt:

I am cross examining him about it.

The Court:

You may cross examine him as to that.

Mr. Mulholland:

2264 Save the exception.

Mr. Merritt:

This is from the Evening News of July 25th, 1902. "After Loewe Factory."

"After Loewe Factory. Hatters' Union will attempt to unionize this plant. The United Hatters of North America, which has recently unionized several of the largest hat factories in the country, has transferred its operations to Danbury and announces its intention of unionizing the factory of D. E. Loewe & Co. President Moffitt,

Vice President Lawlor, and Treasurer Maher went to the factory and ordered all the union men employed there to quit work. The men did, immediately, as instructed and the factory is now short handed in all departments. 2265

"Mr. Maher said today that it is the intention of the union to make the factory union in a short time. The number of men removed this morning was about fifty. When the union men stopped work but nine men remained in the sizing room, and these were induced to stop work afterwards. Mr. Maher stated further that all the men in the factory will be out tomorrow.

"Mr. Loewe said to a reporter today that although the factory is crippled in some departments, operations are being continued and the firm expects to be able to get men enough in a few days to have the factory in full operation again. He stated that the firm had been advised by the union a year ago of its intention of unionizing the factory, but that the firm cannot see its way clear to put itself under the direction of the Hatters' Union. 'The grade of hat we make,' said Mr. Loewe, 'makes it impossible to make hats under the union rules and market them at a profit.' Mr. Loewe stated that the firm does not intend to acceed to the demands of the union, and said that there has been no trouble between the firm and its employees." 2266 2267

The Court:

Is that the article to which he referred in his examination?

The Witness:

I think it is the article. I couldn't say it was the one identified in the last trial. At the time I was here at the last trial I identified an article—the other trial; but I can't say whether that is the same one or not.

Q. Haven't you any recollection whether that is the article which you had in mind now? A. I think it is the one that I identified at the last trial. 2268

Q. To the best of your recollection? A. To the best of my recollection; yes.

Q. Are you willing to testify now that you knew anything of that article prior to the time that this suit was started? A. I may have read it through and not give it any other thought

2269 Q. You have complete control of the publication of your paper? A. Yes, sir. I may have seen the article before it was published; I can't tell you in regard to that.

Q. You couldn't tell? A. I couldn't remember.

Q. Do you know whether you collected this particular item of news yourself? A. I don't think I did.

Q. Didn't you testify at the last trial that it is possible that you may have got it yourself, and you might not; you couldn't tell?

Q. You take the same position now, don't you; that you can't testify positively as to whether or not you
2270 gathered that particular item of news? A. Yes, sir; just the same. I am not sure.

Mr. Merritt:

That is all.

Mr. Mulholland:

You didn't read this article after it was published in your paper, did you? A. No, I don't remember reading it.

Mr. Mulholland:

That is all.

Mr. Merritt:

2271 Didn't you testify a few minutes ago that you may have read it? A. Yes, I may have read it.

Q. You have no recollection of reading it now? A. The same answer.

Mr. Merritt:

That is all.

Witness excused.

Witness,

ROBERT G. MITCHELL,

2272 Sworn by Mr. Carroll.

The Clerk:

Your full name? A. Robert G. Mitchell.

EXAMINED

By Mr. Merritt:

Q. I didn't catch your name?

The Clerk:

Robert G. Mitchell.

Q Where do you live, Mr. Mitchell? A. South Norwalk, Conn.

Q. Are you connected in any way with the publi- 227
cation of the Evening Sentinel of Norwalk? A. Yes, sir.

Q. What position do you occupy? A. City Editor.

Q. How long have you served in that capacity? A. About fifteen years, or twelve years I guess is nearer to the time.

Q. Is that a daily paper? A. Yes, sir.

Q. Are you the proprietor of the paper in any sense of the word? A. No, sir; the proprietor died last June, Mr. Golden.

Q. Who is the proprietor today? A. His family; 227
his wife and two daughters.

Q. And you hold the position of City Editor? A. Yes, sir.

Q. Where is that paper circulated? A. Why, in the Towns of Norwalk, Darien, Westport and adjoining towns, and the Town of South Norwalk.

Q. What is the size of its circulation? A. At present?

Q. Or was it in 1900 and 1903? A. About two thousand then.

Q. Was or was not the greater part of that circulation in the Town of Norwalk? A. Yes, sir; it was. 227

Q. Well, what percentage of it would you say was in the Town of Norwalk? A. Eight-tenths.

Q. Is there any other daily paper in Norwalk? A. Not in South Norwalk; there is in the town of Norwalk.

Q. You are in South Norwalk? A. Yes, sir.

Q. And what is the other paper in Norwalk? A. The Norwalk Hour.

Q. You have produced here certain issues of the Evening Sentinel? A. Yes, sir.

Q. And they were produced under subpoena duces 227
tecum, were they not? A. Yes, sir.

Q. Are they the issues of the evening Sentinel for the dates which they bear? A. Yes, sir.

Q. You took them from your files? A. They are the files.

Q. They are your bound files that you keep for reference? A. Yes, sir.

Q. Or was it in 1903? A. Why, twenty-two thousand.

277 By Mr. Merritt:

Q. Among what class of people does your paper circulate? A. Why, the working class. It is a manufacturing town.

Q. Largely among the working class? A. Yes, sir.

Mr. Merritt:

That is all, Mr. Mitchell.

CROSS EXAMINATION

By Mr. Mulholland:

278 Q. You say the population was about twenty-two thousand? A. About, I should think.

Q. In 1903 you were issuing about two thousand papers? A. Somewheres around there.

Mr. Mulholland:

That is all.

Witness excused.

Witness,

EDWARD J. THOMAS,

279 Sworn by Mr. Carroll:

The Clerk:

Your full name, please? A. Edward J. Thomas.

EXAMINED

By Mr. Merritt:

Q. Mr. Thomas, do you also live in Norwalk? A. Yes, sir.

Q. And what business is yours? A. Treasurer and Manager of the Hour Publishing Company.

280 Q. And does that company publish a daily paper in Norwalk? A. Yes, sir.

Q. Is that the only paper it publishes? A. Well, we have a weekly edition which is excerpts from the daily.

Q. What do you call the weekly edition? A. Norwalk Weekly Hour.

Q. What was the circulation of that paper in 1900 and 1903? A. I can't say at that time, because I was not connected with the paper at that time. We purchased the paper in 1902, February.

Q. Well, what was its circulation in 1902? A. Well, 2281
I should say about 2,000.

Q. You have produced here certain issues of that paper? A. Yes, sir.

Q. And are they the regular issues of the Norwalk Hour which you have on file at your office? A. They are the bound files of the paper; yes, sir.

Q. And they represent the issues of the special dates which they bear? A. Yes, sir.

Mr. Merirtt:

Well, there is no occasion for further identification, is there, with this man? 2282

Mr. Beach:

I think not.

Mr. Merritt:

That is all.

CROSS EXAMINATION

By Mr. Mulholland:

Q. Mr. Thomas, when did you become connected with the Home Publishing Company? A. The Hour Company. 2283

Q. The Hour Publishing Company? A. The first of March, 1905—I mean, 1902, excuse me.

Q. And have you been there continuously ever since? A. Yes, sir.

Q. Was your paper published in Norwalk or South Norwalk? A. Published at Norwalk.

Q. And you say you were publishing about 2000 copies in 1902-'03? A. Yes, sir.

Q. And what is the population of Norwalk, or was at that time? A. Well, I should say in the neighborhood of twenty-two or twenty-three thousand. It is about 2284
twenty-nine now.

Q. About twenty-two thousand then in 1900 to 1903? A. I should think so.

Q. What is your position on the paper, or was it in 1902 and '03? A. Manager.

Mr. Mulholland:

That is all, Mr. Thomas.

2285

RE-DIRECT EXAMINATION

By Mr. Merritt:

Q. When you say the population was twenty-two, you mean covering the entire town of Norwalk? A. Norwalk, South Norwalk, Rowayton and Westport and several other places.

RE-CROSS EXAMINATION

2286 By Mr. Mulholland:

Q. As to your circulation, it is circulated in those various parts of town, isn't it? A. Yes, sir.

Mr. Mulholland:

That is all.

Witness excused.

Mr. Merritt:

I will read from the deposition of William Wixted, Boston.

Mr. Mulholland:

This is one of the depositions to which our motion
2287 was directed.

The Court:

You may proceed with it.

Mr. Mulholland:

Save an exception.

Mr. Merritt:

"WILLIAM WIXTED.

By Mr. Merritt:

2288 Q. What is your name? A. William Wixted.

Q. Age and occupation? A. 38; hatter.

Q. Are you a hat maker? A. Hat maker.

Q. For whom are you working now? A. I am not employed at hat making now.

Q. How long since have you been employed? A. I think it was up to the first of September last year.

Q. Where were you employed then, Mr. Wixted? A. The Guyer Hat Co.

Q. Are you a member of Local Hat Makers' Union No. 5 of Boston? A. I am.

Q. Are you secretary of it? A. Yes. 2289

Q. How long have you been secretary of it? A. Since January, 1905. I am not positive but I think that is the date.

Q. Do the duties of the secretary of that local involve the keeping of the records of the meetings? A. They do.

Q. Have you possession of those records? A. I have.

Q. What dates do they cover? A. They cover the period from 1898 to the present time.

Q. Have you examined them? A. I have. 2290

Q. Do they constitute continuous records from 1898 down to the present time? A. As near as I can recollect, they do.

Q. Have you brought these books with you today? A. I have.

Q. May I examine them?

Mr. Mansfield:

I object.

A. I object on the grounds given by my counsel."

Mr. Mulholland:

The next question and answer are objected to and all the questions and answers relating to the claimed privilege on the part of this defendant; and we ask that we may save our exception without again interrupting the reading of the deposition. 2291

The Court:

That may be so understood.

Mr. Merritt:

"That is, the ground that it might tend to incriminate you? A. Yes.

Mr. Mansfield:

He did not say that; he said the grounds given by his counsel. 2292

Q. What are your grounds? A. Inasmuch as the subpoena that I received does not call for the showing of any records.

Q. That is the only ground that you— A. That it has no bearing on the case.

Q. That is the only grounds on which you refuse to exhibit them?

2293 Mr. Mansfield:

I want also to direct you, Mr. Witness, that you do not have to answer on the ground that it might incriminate you.

The Witness:

I object because they might incriminate me.

Q. Do you refuse to examine those books for the purpose of testifying from them?

Mr. Mansfield:

Didn't he say he had examined them? A. Yes.

2294 Q. And on the grounds you have stated? A. Already given.

Q. I will ask you to testify what was the first meeting of your association immediately preceding February 23rd, 1903.

Mr. Mansfield:

I object to that on the ground that it would be necessary, in order to answer the question, to consult the records.

A. I object on the grounds stated by my counsel.

Q. Will you examine the records and state the date of the first meeting prior to that time.

2295 Mr. Mansfield:

I object on the ground that he has already said he refused to examine them.

A. I refuse to answer.

Q. On the grounds you have already stated? A. Yes, sir.

Q. And do those cover the only reasons why you refuse to answer these questions—the two reasons that you have already given? A. Yes, the reasons I have given.

2296 Q. When did you first see Mr. Taylor? A. The first time I saw Mr. Taylor, I was a boy about that high (indicating a height of about two and half feet).

Q. When did you last see him before today? A. I couldn't fix the date.

Q. You didn't see him yesterday? A. Yes, I saw him yesterday.

Q. The day before? A. No, sir.

Q. Did you consult with him concerning this case yesterday? A. I did not.

Q. Had no conversation with him concerning the case whatsoever? A. No, sir. 2297

Q. Did you have any conversation with him this morning before you came into these offices? A. No, sir; I did not.

Mr. Taylor:

Counsel for the defendants desire to place upon the record that they disclaim any responsibility of the witness to testify on either of the grounds stated, or that they have any control over the witness."

Now I turn to the deposition of 2298

CHARLES MORRIS.

Mr. Mulholland:

Our motion also goes to the testimony of this witness, if the court please; that is the motion to suppress.

The Court:

You can read it.

Mr. Mulholland:

Take an exception.

Mr. Merritt:

"Q. What is your name? A. Charles Morris. 2299

Q. And your age? A. Forty three.

Q. Occupation? A. Hatter.

Q. Maker or Finisher? A. Finisher.

Q. Are you a member of the Local Finishers' Union here? A. Yes, sir.

Q. How long have you been a member? A. About seventeen years.

Q. Have you ever been an officer? A. Yes, sir.

Q. What office, and during what period did you hold it? A. Well, I have been Vice-President. I could not exactly tell you what period it was in; somewhere around '94 or '95. I have been secretary from 1897, I believe, to about 1903. 2300

Q. Did you ever write any letters to any retail hat dealers or jobbers about not handling the goods of D. E. Loewe & Co.?

Mr. Mulholland:

The answer to that question is objected to.

The Court:

Objection overruled:

2301 Mr. Mulholland:

We would like to save exceptions to all answers to questions in which the deponent claims his privilege.

Mr. Merritt:

"Mr. Mansfield: I object.

Mr. Taylor:

The defendants object to the form of the question, in that it fails to disclose the loss or destruction of the letters and calls for the contents orally? A. I refuse to answer that question on the ground that it might incriminate me.

2302 Q. Did you ever write any letters concerning D. E. Loewe & Co., when acting as Secretary of the Local Finishers' Union here?

Mr. Taylor:

Same objection as to the form of the question as before; and counsel for the defendants desire to have it stated on the record that they disclaim any responsibility for the declination of the witness to answer any of the previous questions, or any future question which may be propounded to him, and disclaim any control over the action of the witness.

2303 A. I refuse to answer that question—while in my own mind, I don't think I ever did; still I refuse to answer the question on the ground that it might incriminate me some time or other.

Q. I show you a copy of a letter purporting to have been written by you to Fidler Bros. under date of February 22nd, 1903, and ask you whether you recollect having written the letter of which this is a copy, to Fidler Bros.

Mr. Mansfield:

I object. He has already declined to answer, and given reasons, about writing any letter. I desire to state for the benefit of the witness that any answer that might incriminate him he may refuse to make.

2304 A. I take the same stand I did on the other previous question, such as writing letter, that I refuse to answer one way or the other, on the ground that it might incriminate me.

Q. Now I will ask you, Mr. Morris, whether the local Finishers' Union of Boston has any by-laws, or has ever passed any resolutions fining people who purchased non-union goods.

Mr. Taylor:

2305 Objected to as to the form of the question because it does not call for transactions prior to the bringing of either the state or federal action?

A. I shall have to object to answer that question on the ground that it is not in the contents of the subpoena I received.

Q. What was in the subpoena you received? A. To come here and testify in regard to the D. E. Loewe suit against the United Hatters of North America.

Q. Do you refuse to testify whether or not the local union here, of which you are a member, fines people for 2306 buying non-union hats?

Mr. Taylor:

Objected to as to the form, because it indicates the present, a date five years subsequent to the bringing to the action. This objection is made at this time on the ground for form, for the express purpose of carrying out the intent and object of the stipulation to allow counsel to reframe the question, if he sees fit before the deposition is closed."

"A. Well, I would have to refuse to answer that question on the grounds stated in the previous questions. 2307

Q. Now I will ask you whether in 1902 this union of which you were then a member, ever had any by-laws or rules fining people for purchasing non-union hats? A. Well, it would seem ridiculous to fine a hatter for buying non-union hats. But to the best of my knowledge they had not. They certainly don't expect a hatter to buy non-union hats.

Q. Are you willing to testify there were no such rules? A. I have already stated.

Q. I am asking you whether you are willing to testify positively that there was no such rule? A. No, 2308 sir."

Mr. Mulholland:

Pass the cross examination.

Mr. Davenport:

It is very brief.

Mr. Merritt:

I now read from the Journal of the United Hatters for September, 1903, on page 1, under the head of "News from Our Agents."

2309 Mr. Beach:

We object to that, if Your Honor please.

Mr. Mulholland:

Subsequent to the date of the commencement of this suit.

Mr. Merritt:

We offer it as proof of the fact that he states in August 21, 1903, what he has done.

Mr. Beach:

We object to it.

The Court:

2310 You can read it.

Mr. Mulholland:

Note an exception.

Mr. Merritt:

Under the head of "News from Our Agents." I omit the first part of the report.

Mr. Merritt:

Plural "News from Our Agents. Portland, Oregon, August 21, 1903. Mr. Editor, Dear Sir: We are still on the Pacific Coast telling our troubles to merchants, union men, and to all who will listen; and I feel safe in saying

2311 that we are meeting with good success."

I skip down to the middle of page 2; "I have been in this city for the past four days. The city is well organized and good results can be expected from Portland in the future. The State Federation of Labor of Oregon and the Portland Federated Trades Council have endorsed the action of the California State Federation of Labor and the San Francisco Council of Labor in declaring a certain San Francisco Hat Jobbing house unfair. Since my last letter for the Journal I have operated in the following places: Los Angeles, Pasadena, San Barnardino, Red-

2312 lands, Riverside, San pedro, San Diego, Santa Anna, Santa Barbara, Bakersfield, and Fresno, Calif. At all of the above places the Central Bodies and local Unions endorse the action of the San Francisco Council of Labor and the California State Federation of Labor without a single exception.

"I visited those meetings and addressed them on behalf of our label and told them of our present trouble, and how they could help us in their locality. I also visited all of the hat dealers in each place and billed each town

with large and small cards. Brother D. T. Kelly is operating in the vicinity of San Francisco, Sacramento, Stockton, Oakland, San Jose, Santa Cruz, San Raphael, Eureka and other places convenient to that locality. He no doubt is kept quite busy as there is a lot of work to be accomplished there in our line. 2313

"Yours respectfully,

"W. C. Hennelly, Agent."

I am now going to read from the deposition of

MARTIN TRIEST, 2314

which was taken on the 14th day of September, 1908, in the City of San Francisco; Walter G. Merritt and C. A. Frost, Esq., appeared as counsel for plaintiff and John K. Beach, Esq., appeared as counsel for defendants:

"Mr. Merritt:

State your name, age, residence and occupation? A. My name is Martin Triest, age 36, residence 1421 Sutter Street, occupation merchant.

Q. You mean by 'merchant' you are a wholesaler handling hats? A. Yes, sir. 2315

Q. I will ask you how long you have been in the business of handling hats as a wholesaler? A. Triest & Co.

Q. Yes? A. Twenty years.

Q. And you are connected with the concern of Triest & Co.? A. Yes, sir.

Q. How long has that house been engaged in business? A. Since 1855.

Q. What is your connection with the concern? A. Manager and Treasurer.

Q. As the manager what are your duties? A. To look after the crediting; look after everything in general; duplicating of orders, selling the hats and everything. 2316

Q. This concern of Triest & Co. has always been doing business in San Francisco? A. Yes, sir.

Q. Is it a corporation? A. It has been a corporation since 1900.

Q. Will you give the names of the officers? A. At the present day?

2317 Q. Yes? A. J. E. Triest, President; Mrs. B. Triest, Vice-President; Frank Triest, Secretary; Martin Triest, Secretary; H. D. W. Dinkelspiel—

Mr. Davenport:

"Martin Triest, Treasurer."

Mr. Merritt:

Yes. "Martin Triest, Treasurer; H. D. W. Dinkelspiel, Director.

Q. How long have you been Treasurer? A. Since the corporation was formed.

2318 Q. I will ask you, Mr. Triest, whether you are acquainted with the concern of D. E. Loewe & Co.? A. I am.

Q. And your house has had business dealings with Loewe & Co. in the way of purchasing hats from them? A. For many, many years.

Q. Can you state approximately how many years? A. Over fifteen years.

Q. And will you state whether your patronage has been what might be generally termed continuous during that time? A. Continuous.

2319 Q. And whether or not it has been considerable or simply in small amounts. A. Considerably.

Q. I will ask whether or not you have received any visits from anyone asking Triest & Co. not to patronize D. E. Loewe & Co.? A. I did in many instances.

Q. You have received many visits? A. Yes, sir.

Q. I will ask you what is the first visit you recall?"

Mr. Mulholland:

This next answer objected to, for the reason that it involves a person not known to these defendants.

The Court:

2320 The only question is whether you have proved that this man is identified with that organization.

Mr. Merritt:

Well, I assure you we will.

The Court:

Well, with that assurance, I will take the evidence.

Mr. Mulholland:

Save the exception.

Mr. Merritt:

"I recall a visit of a man by the name of Rosenberg, who introduced himself as the Secretary of the San

Francisco Labor Council. He called on me about January, 1903,"

Your Honor, I would like to state about that, that in reading the report of D. P. Kelly when he left San Francisco he said if there were any matters on the Pacific Coast communicate with Ed. Rosenberg, and that has been read into the record already.

"Q. I do not suppose you recall the exact words he used there? A. I know the substance.

Q. Tell me if you can in a general way how he introduced himself and what he said.

Mr. Mulholland:

The answer is objected to and the same exceptions.

The Court:

Go on.

A. He introduced himself as Secretary of the San Francisco Labor Council, and told me that he had been notified by the United Hatters of North America that we were heavy purchasers of the Loewe Hat and D. E. Loewe & Co. had been declared unfair by the American Hatters.

Q. What do you mean by the American Hatters? A. By the United Hatters of North America and the American Federation of Labor, and asked me if it was true that we were heavier purchasers of the Loewe goods; and asked me to quit buying them.

Q. Who did this man represent himself to be?

Mr. Mulhollond:

Objected to and exception.

Mr. Merritt:

"A Secretary of the San Francisco Labor Council.

Q. Did he show you any documents, literature or letters of any kind? A. None at all.

Q. I will ask you if you recall in substance anything else in the conversation that took place at that time? A. No, sir, I do not.

Q. Did you give me the date? A. Yes, sir; January 1903.

Q. Now, Mr. Triest, please give me the date of the next visit you recall? A. I recall Mr. Zant who called on me in the middle of February, 1903, representing himself to be the Secretary of the San Francisco Labor Council.

2325 Q. Did this gentleman introduce himself as you have testified? A. Yes, sir.

Q. As the representative of the San Francisco Labor Council? A. As the Secretary of the San Francisco Labor Council.

Q. I will ask you what is the next visit you recall? A. About three weeks thereafter by the same man.

Q. And the next one, if any? A. About two weeks thereafter by the same man.

Q. Give me any other visits that you have in mind? A. These three visits were the only visits of Mr. Zant,
2326 and I had no further visit from any labor organization until July, 1903, when Mr. Hennelly and Mr. Kelly called at my place of business on Sansome Street. Mr. Hennelly being the spokesman introduced himself—

Q. Just a moment I have not asked you for any conversation yet. I will ask you to take up the three visits of Mr. Zant concerning which you have testified? A. Mr. Zant on the three different occasions after introducing himself, produced telegrams in each instance.

Q. Have you those telegrams? A. I have not.

Q. Do you recall their contents? A. I do; that is
2327 the substance of the telegrams.

Q. Have you any way of refreshing your memory as to the exact contents of those telegrams? A. I have.

Q. How can you do that? A. By referring to the letters that I wrote Mr. Loewe at the time of the visits of Mr. Zant.

Q. Do you mean that these letters contain copies of the telegrams? A. They contain copies of the telegrams.

Q. How do you know that they are correct copies? A. Because I copied the telegrams verbatim, and the same day
2328 wrote the contents to Mr. D. E. Loewe myself.

Q. Do you mean that you wrote a letter to Mr. Loewe containing a copy of each telegram right after each visit? A. After each visit an exact copy of the telegram.

Q. Now I will ask you Mr. Triest, if you can, to give me the contents of those three telegrams as nearly as possible in the order in which they were shown you at these respective visits?"

Mr. Davenport:

To keep this record clear at this time, in regard to this Mr.

Rosenberg, I would like at this time to read into the record 2329
from page 485 of the November Federationist, 1901, the report which was made to the President of the American Federation of Labor under the heading of "What our organizers are doing from the Atlantic to the Pacific, beginning near the bottom of the page, the first column: "San Francisco, Ed. Rosenberg Secretary Labor Council: By this time you are familiar with the fact that the strike of the transportation workers unions has been declared off. Fifteen thousand men who quit work here that they and others might uphold the principles of unionism have gone back to work as union men. The non-union men are leaving the city in droves. They do not like the San Fran- 2330
cisco climate now that the strike is over. The cause of labor has been strengthened and advanced by this strike. The workers of San Francisco desire to thank the American Federation of Labor most heartily for the assistance so far rendered, and also the local and national union. We bespeak however a continuance of your donations, because over four thousand members of the various iron trades are still on strike for the nine hour day, and determined to gain it. They have been on strike since May 20, and you will readily perceive that large sums of money are necessary to keep the wolf from the door especially as many of these men have large families. The more 2331
liberal the donations the quicker the fight will be settled in favor of these men. The employers, in spite of their greatest efforts, have failed to secure competent men to fill the places of those who struck, and the only hope they have of beating the men back to work is through starvation. So far, our union brethren have helped us to keep these men in food. Please to continue this effort and labor will gain another substantial factory. All contributions should be sent, as heretofore, to Ed. Rosenberg, Secretary, San Francisco Labor Council, 927 Market Street, San Francisco, Calif."

Mr. Merritt: 2332

Your Honor, I would like to read four lines here from the Journal for March, 1902, of the report of Daniel P. Kelly, Agent: "Anything in the future on the Coast send instructions to Ed Rosenberg, San Francisco. Our Local Association at 'Frisco will look after our interests also. D. P. K."

Mr. Merritt:

"A. One telegram was addressed to Edward Rosenberg, and presented by Mr. Zant: 'See Triest regarding non union

2333 goods of Loewe which I spoke to you about at New Orleans signed John A. Moffitt."

Mr. Merritt:

"Q. You are not pretending to give the exact wording? A. No, sir; as nearly as I can remember. The second telegram was 'Triest & Co. placed orders with Loewe hundred and ninety-eight dozen hats. Wire us how much money to send to start the boycott.' The third telegram was 'Triest—

Mr. Mulholland:

If the Court please, I think that telegram is objectionable. There is no date and there is no name signed to it.

2334 Mr. Mulholland:

Save our exception as to all of these telegrams and that will save our interfering.

"The third telegram was 'Triest placed for a hundred and sixty dozen hats.'

Q. I will ask you to examine this letter and tell me whether or not that contains an exact copy of the third telegram concerning which you have testified? A. Absolutely a copy of it, as I took this copy at the very time Mr. Zant showed it to me.

2335 Q. Now I will ask you, Mr. Triest, if your recollection is perfectly clear as to the substance of these telegrams? A. Absolutely. The one here is the exact words which I testified to without seeing the letter.

Q. I will ask you why your recollection is so clear concerning the contents of the other two telegrams? A. Because I have testimony which I had given in a previous case, and I have read that testimony to refresh my memory, though it was perfectly clear to me just the same.

Q. Will you state why your recollection concerning the telegram was so clear at the time you testified in the former

2336 case? A. Because I was shown my original letters at that time.

Q. You are referring now to the letter to Mr. Loewe which you stated contained copies of your telegrams? A. Yes, sir.

"A. Yes, sir; and which I myself wrote to Mr. Loewe.

Q. I will ask you now whether any one accompanied Mr. Zant during his first visit? A. It was one of the visits that he had two other men with him.

Q. Do you recall who the other two men were? A. They were not introduced to me.

Q. Who acted as spokesman? A. Mr. Zant. 2337

Q. I will ask you whether or not the conversation that took place at these three respective visits from Mr. Zant were similar, and whether it concerned the same subject, etc.? A. It was simlar and concerned the same subjects, except that in each indivilual case that he called he first was very kind; the second time he asked me not to do it, and the third time demanded of me not to purchase from D. E. Loewe & Co.

Q. Is your recollection clear so that you can give the substance of the conversation of these separate visits? A. I could not, except so far that all covered the same; in the first instance teling me that D. E. Loewe was on the unfair list and 2338
they they understood we were heavy purchasers of the Loewe hats and that we had to quit D. E. Loewe & Co.; and the second time he sort of intimated that we must quite Loewe & Co., and the third time he demanded of me to write to the Labor Council that we would quit Loewe.

Q. Now I will ask you to give me to the best of your recollection the substance of the other conversation that took place at these three visits."

Mr. Mulholland:

That is objected to. May we have an exception, if the court please, as affecting all these conversations with Mr. 2339
Triest that were made in the absence of any of these defendants.

The Court:

Well, your general objection, to start with covers it all, doesn't it?

Mr. Mulholland:

If that is so understood, I will not interrupt the reading of this deposition.

The Court:

Well, it may be so understood.

Mr. Merritt: 2340

"A. After showing me these telegrams from Mr. Moffitt, he asked me if it was true in each instance, and told me that Mr. D. E. Loewe had locked out his union men, and that the men were out for better conditions; and that if we would quit buying of Loewe they would have no hesitancy in saying that they would make Mr. Loewe fair; that we were his best customers; and led me to believe that if we did not quit we would suffer and take the consequences."

2341 Mr. Mulholland:

The latter part of that answer is, in our opinion, objectionable.

The Court:

I think that is admissible in the line that I have indicated, I think Friday.

Mr. Mulholland:

Save an exception.

The Court:

That it was a part of the history of the business transactions with the plaintiffs with the deponent.

2342 Mr. Merritt:

"Q. Do you recall whether he said anything further as to what he meant by 'suffer and take the consequences'? A. It was very plain what he meant, and I answered him accordingly.

Q. I will ask you to give me, as far as you can recall, what you said? A. I told him that we had purchased goods from D. E. Loewe for many years; that Mr. Loewe's goods had always given us perfect satisfaction and I would not be able to see my way clear to quit Mr. Loewe except he could show me a union factory making the same priced goods as D.

2343 E. Loewe & Co. made; and that if he did that, in that instance I would try the line, and if I found it to be satisfactory I would see what I could do. I then asked him what he intended to do about other customers of D. E. Loewe & Co., and he replied that other customers of D. E. Loewe would be boycotted all over the country until they ceased buying from Mr. Loewe. Then I asked him what he cared about my buying from other non-union factories and mentioned John B. Stetson at that time. He told me he did not care; that I could buy from ninety-nine non-union factories if there were a hundred of them, but I must not buy from D. E. Loewe & Co.

2344 Q. You are now testifying as to what Mr. Zant said to you? A. What he said to me and my answer.

Q. Have you anything further to say in this connection? A. Nothing as far as Mr. Zant is concerned.

Q. Or concerning this interview? A. Or concerning this interview.

Q. When I say 'this interview' I am including the whole three interviews? A. The whole three interviews.

Q. Will you state whether or not this conversation concerning which you have testified applied generally to the three interviews? A. It applied to the three interviews. 2345

Q. Now I will ask you to testify again what was the next visit you received concerning this matter? A. From Mr. Hennelly and Mr. Kelly.

Q. And what was the date of that Mr. Triest? A. July 2nd, 1903.

Q. Whom did these gentlemen represent themselves to be? A. Mr. Hennelly introduced himself by presenting a card showing him to be the representative of the United Hatters of North America. 2346

Q. I show you "Plaintiff's Exhibit 13" and ask you whether you can state to me that that was or was not a copy of the card that he showed you? A. Yes, sir; this is a copy of the card that he gave to us."

Mr. Merritt:

Now I will offer that exhibit in evidence as "Plaintiff's Exhibit 64."

(Marked Plaintiff's Exhibit 64.)

"William C. Hennelly, National Advertising Agent, and Representative of United Hatters of North America. General Office, 11 Waverly Place, New York City," and "Allied Printing Trades Council Union Label, San Francisco" in the corner. 2347

"Q. I will ask whom Mr. Kelly represented himself to be? A. I don't believe that at that time Mr. Kelly said a word.

Q. After Mr. Hennelly introduced himself what did he say? A. He told us the purpose of what brought him to this Coast and asked us several questions, which we answered.

Q. What did he state was the purpose? A. In substance that he came out here in the interest of the United Hatters of North America; that they had been on strike since August, 1902, in the unfair factory of D. E. Loewe of Danbury, Conn.; and asking us if we would not quit purchasing goods from D. E. Loewe. My Brother Jesse, myself, Hennelly and Kelly were present at this conversation. 2348

Q. These were the only gentlemen present at that time? A. The only gentlemen present at that time.

Q. And they were all present? A. They were all present. When I say 'we' it was either Mr. Jesse Triest or myself, or Mr. Hennelly and Mr. Kelly in one of these fifteen minute conversations. We went on to tell them that we knew there

2349 was a strike on at Mr. Loewe's factory, and we felt that Mr. Loewe's goods were giving us perfect satisfaction, and that we could not see our way clear to stop purchasing goods from D. E. Loewe & Co. Thereupon my brother spoke and said 'why is it you are after D. E. Loewe & Co. when there are so many non-union firms back east'? whereupon Mr. Hennelly spoke up and said there were only two foul factories back east. My brother turned around and told him he had better wake up, go back east and find out, as he knew many more. Mr. Hennelly stated that it made no difference how many foul factories there were, we simply could not purchase from D. E.
2350 Loewe & Co. We told them that these goods were perfectly satisfactory, and that we would not stop trading with D. E. Loewe & Co. They told us if we did not we would have to suffer the consequences, but before doing anything we would see us again that afternoon."

"They thereupon left the store, and I have never seen them from that day to this.

Q. You have given me to the best of your recollection the conversation that took place at that time? A. Yes, sir; the substance of the conversation.

Q. I will ask you whether you heard anything concern-
2351 ing this matter in the way of written or printed communication between the time of Mr. Zant's last visit and the time that Mr. Hennelly and Mr. Kelly called on you? A. Not at all.

Q. You testified that you received no further visits after the occasion of this visit from Mr. Kelly and Mr. Hennelly? A. None whatsoever.

Q. I will ask you to tell me what you next heard or saw in connection with this matter? A. The day after I read in the Bulletin an evening paper of San Francisco—"

Mr. Mulholland:

I think that is objectionable, if the court please, stating
2352 what he read in the paper the day after.

The Court:

You may proceed.

Mr. Mulholland.

Exception.

Mr. Merritt:

"A. The day after I read in the Bulletin, an evening paper of San Francisco, that the San Francisco Labor Council had declared the firm of Triest & Co. unfair.

The Court:

That was the deponent's company?

Mr. Merritt:

Yes, that was the deponent's company, a customer of D. E. Loewe & Co.

"Q. I will ask you to examine 'Plaintiff's Exhibit 27' and ask you to state whether that is from the issue of the Evening Bulletin to which you refer (handing it)? A. No, sir.

Q. What did you give as the date? A. I gave the date as July 3rd, 1903.

Q. I will ask you to examine 'Plaintiff's Exhibit 28' which purports to be a copy of the Bulletin which you have testified about? A. This is the copy of the Bulletin."

And I offer to read from that, Your Honor.

Mr. Mulholland:

To which we object.

The Court:

You may read it.

Mr. Mulholland:

Exception.

Mr. Merritt:

"The Bulletin, San Francisco, Saturday Evening, July 4th, 1903. Labor Council votes to boycott firm which handles hats made by unfair Eastern manufacturer.—Notes." Then follows some other matters down to the middle of the column: "National Hatters' Label. Daniel P. Kelly representing the United Hatters of North America addressed the labor Council last night on the subject of a Hatters' Label. He admonished all union men to buy hats only when they contained the union label of the United Hatters of North America. He explained that there were several superious labels now on the market and all that was necessary to buy hats with the genuine label. The genuine ones are always sewed in and they are perforated on the four edges exactly the same as a postage stamp. Any dealer in hats who has loose labels should be shunned by union men, as all such labels are counterfeit. Mr. Kelly and Mr. Hennelly are in the city for a special purpose and will remain until their mission is accomplished. Mr. Kelly stated that Triest & Co. of this city were agent of Loewe & Co. whose hats were now on the unfair list. This is a Danbury, Conn., firm. The Labor Council decided to declare a boycott on Triest &

2357 Co. so long as they handled the hat of that unfair Eastern firm.

Q. And the notice that you see on that paper is the notice which you have referred."

I think Your Honor, perhaps we had better make that as an exhibit, which is the Bulletin for July 4th, 1903, that I just read, so we will offer it as "Plaintiff's Exhibit 65."

(Marked "Plaintiff's Exhibit 65.")

"Q. And the notice that you see on that paper is the notice to which you have referred? A. The only notice that I received that we were boycotted.

2358 Q. When did you next hear anything concerning this matter? A. Within a very short time after.

Q. What was the nature of the information? A. When I started to receive hundreds of circulars from our various customers.

Q. About how long after did these circulars commence to come in? A. Within a very short time afterwards.

Q. Within two weeks after that? A. Less time than two weeks thereafter.

Q. Were the circulars that you received at that time all of one type? A. They were at that time all of one type.

2359 Q. I will ask you if you have any of those circulars? A. I have not.

Q. How did you receive them? A. Through the mail and give to me by different customers.

Q. Had you any way of telling from whom they came through the mails concerning any of them. A. Some I sent to Mr. D. E. Loewe and some I kept here.

Q. You have not got my question. I asked you whether you had any way of telling from whom any of these circulars came to you through the mails or from whom they came? A. Except that I kept envelopes at the time attached to the circu-

2360 lars.

Q. At that time did you know from whom they came? A. Every one of them.

Q. How did you know? A. Through letters enclosing the circulars.

Q. And from whom were the letters? A. From our individual customers who sent us these circulars.

Q. Were you familiar with the handwriting of these different customers? A. Absolutely; and answered pretty nearly every one of them.

Q. I will ask you to examine 'Plaintiff's Exhibit 22' and state whether or not that is a copy of the circular which first began to come to you? A. It is the first circular that I saw that was issued. 2361

Q. Now if you will testify in a general way as to how many of these you received and during what period of time they continued to come in. I am referring now to this Exhibit 22? A. For two or three months thereafter I was receiving them continuously. How many it would be hard to state.

Q. Did you receive ten? A. Many more.

Q. Did you receive a hundred? A. Easily. 2362

Mr. Beach:

We object to the evidence as to the receipt of circulars subsequent to the commencement of the action.

Mr. Mulholland:

We object to it further on account of its not being connected up with any of these defendants.

Mr. Merritt:

That is all I offer it for now; as a sample, not of anything done subsequent, but at that time.

The Court:

You may proceed. 2363

Mr. Mulholland:

We will take an exception.

Mr. Merritt:

"San Francisco Labor Council affiliated with American Federation of Labor. Secretary's Office, 927 Market Street, Rooms 405, 406, 407 Emma Spreckle's Building, Telephone, South 447," and then the label of the Allied Printing Trades.

Mr. Merritt:

"Meets every Friday at 1159 Mission Street. Address all communications to 927 Market Street, San Francisco, July 3rd, 1903. To whom it may concern: At a special meeting of 2364 the San Francisco Labor Council held on the above date the hat jobbing concern known as Triest & Co., 116 Sansome Street, San Francisco, was declared unfair for persistently patronizing the unfair hat manufacturing concern of D. E. Loewe & Co., of Danbury, Conn., where the union hatters have been on strike for union conditions since August 20th, 1902. Triest & Co. will be retained on the unfair list as long as they handle the product of this unfair hat manufacturing concern. Union men do not usually patronize retail stores who buy from unfair job-

2365 bing houses or manufacturers. Under these circumstances all friends of organized labor and those desiring the patronage of organized workers will not buy goods from Triest & Co., 116 Sansome Street, San Francisco. Yours respectfully, G. B. Benham, President of S. S. Labor Council, T. E. Zant, Secretary, S. S. Labor Council, W. C. Hennelly, D. P. Kelly, representing the United Hatters of North America."

Mr. Merritt:

Question 100: "Q. Did you receive any other types of circulars? A. Yes, sir.

2366 Q. How long after this month of July, 1903, concerning which you have been testifying? A. I think it was a few months after I received circulars from Oregon and Washington stating that we were unfair for handling the Loewe hats.

Q. Have you any of those circulars? A. I have not.

Q. What did you do with them? A. Some of them I sent East; a great many of them were destroyed in the fire of 1906 at my office.

Q. Did you give some to the attorneys who represented Mr. Loewe in either this case or the atcion for injunction out here against the California State Federation of Labor? A. I gave them quite a few.

2367 Q. I show you Plaintiff's Exhibit 11, and ask you if that is a type of circular that you received from Washington? A. Yes, sir; this is one that came from Washington—from our customers up there."

Now I offer this circular in evidence as "Plaintiff's Exhibit 67."

(Marked "Plaintiff's Exhibit 67.")

Mr. Mulholland:

To which defendants object.

Mr. Merritt:

Dated September 17th, 1903.

2368 Mr. Beach:

We object not only on the general ground, but on the special ground that it seems to be a circular dated subsequent to the commencement of the action, and upon that point it appears that the service of process on the defendants was commenced by the attachment on the 12th of September, and by service of copies on some of the defendants on the 14th, some on the 15th, some on the 16th, some on the 17th of September, and some on the 18th day of September, and one of the defendants was apparently omitted, by accident, to the 23rd of

September. We claim that the date of the action should be the 14th of September. 2369

Mr. Merritt:

Now, Your Honor, this circular is dated September 17th. It says here "Tacoma Trade Council, September 14th," and I think it is in evidence that it was endorsed by the minutes of the Council. It is inconceivable to me how the gentlemen can argue that the action was taken out in Tacoma seven days after the suit was started, or two or three days after the suit was started—

Mr. Merritt:

Isn't evidence of a combination; evidence of the existence of this machinery acting before. 2370

The Court:

That is the only purpose for which you offer it?

Mr. Merritt:

Yes, Your Honor.

The Court:

I will receive it.

Mr. Mulholland:

Exception.

Recess until 2:00 P. M.

Afternoon Session, September 9, 1912. 2371

Mr. Merritt:

I will ask the stenographer to mark this circular.

(Said circular marked Plaintiff's Exhibit 68.)

Mr. Merritt:

This is the circular referred to as being received from Washington.

"Washington State Federation of Labor.

"James Menzies, Secretary, Tacoma. William Blackman, President, Olympia. C. R. Case, First Vice-president, Everett. Miss Nettie Lester, Second Vice-president, Seattle. James Menzies, Secretary, 721 Commerce Street, Tacomo. F. W. Clark, Treasurer, Seattle. S. C. Vanderhoff, State Organizer, Arlington. 2372

"Executive Board.

"S. W. Harmon, Chairman, Seattle. T. V. Copeland, 111 Tenth Street, Tacoma. John Cronow, Averdeen. S. C. Vanderhoff, Arlington. E. F. Quinn, Spokane.

"Tacoma, Washington, September 17, 1903.

"To Whom it May Concern:

"Both the California State Federation of Labor and the

2372 2373 San Francisco Council of Labor have declared unfair the hat jobbers' house of Triest & Co., 116 Sansome Street, San Francisco, California, and 71 First Street, Portland, Oregon, on account of that firm persisting in handling the product of D. E. Loewe & Co., hat manufacturers of Danbury, Connecticut, where the United Hatters of North America have been on a strike for fair conditions since August, 1902.

"At a meeting of the officers and members of the Executive Committee of the Washington State Federation of Labor, held at Tacoma, September 13, 1903, the action of the San 2373 2374 Francisco Council of Labor and the California State Federation of Labor declaring Triest & Co. unfair, was endorsed. We therefore beg to inform you that it is the desire of the union men and women in your locality and in the State, that you do not patronize Triest & Co. as long as such firm continues to handle the hats made unfair by the D. E. Loewe & Co. concern.

"Trusting you will withhold your patronage from Triest & Co. until the existing conditions are adjusted, we are, very respectfully, William Blackman, president, James Menzies, secretary.

"Also endorsed by Tacoma Trades Council September 14, 2374 2375 1903, and the Western Central Labor Union of Seattle, September 16, 1903."

"Q. 113. I will show you Plaintiff's Exhibit 21 and ask you the same question concerning that (handing)? A. Yes, sir. That was issued a year later."

Mr. Merritt:

"Q. 114. Can you tell me in a general way how many of these circulars from Oregon and Washington which came in the year 1903 were received at that time? A. I could not.

"Q. 115. You received more than one? A. Oh yes; 20 or 25, I should say.

2375 2376 "Q. 116. I will ask you, Mr. Triest, the hats you purchased from D. E. Lowe & Co. were soft felt hats, were they not? A. Entirely.

"Q. 117. I will ask you if you can give me substantially the amount of business that you did with D. E. Loewe & Co. in the respective years prior to the time of this boycott. In using the word 'boycott' I want to say that I am referring in a general way to the dates of Mr. Zant's visits, Mr. Kelly's and Mr. Hennelly's visits, and the dates when these circulars began to pour in on you? A. I could not.

"Q. 118. Have you any books here to show that? A. I have not. That is all kept in our New York books. 2377385

"Q. 119. That information can be obtained accurately from your books? A. To the dollar.

"Q. 120. I will ask you to testify whether or not your business with D. E. Loewe & Co. up to the time of the boycott was increasing or decreasing? A. Increasing right along.

"Q. 121. And I suppose the exact amount of the increase can also be ascertained from the New York books? A. Yes, sir.

"Q. 123. I will ask you to testify the grades or the prices of the goods which constituted the larger part of your trade with D. E. Loewe & Co. prior to the boycott? A. From $9 to $13.50 per dozen. 2378386

"Q. 124. Those figures are inclusive? A. Inclusive.

"Q. 125. Can you tell me whether or not your New York books will show the exact proportion of the purchases in their respective grades? A. If they have their bills it will.

"Q. 126. Will the books show that? A. No, sir; the books will only show the actual amount of the purchases for each year.

"Q. 127. Are you in a position to testify to the proportion of $13.50 goods to the other grade? A. I am not. 2379387

"Q. 128. Can you testify whether or not there was any change in the character of the goods you purchased from D. E. Loewe & Co. from the time before the boycott and the time subsequent to the boycott? A. I could.

"Q. 129. Give me the nature of that change? A. That we dropped with very few exceptions the entire line of the $13.50 product, while the cheaper grade of hats that we bought of D. E. Loewe were increased.

"Q. 130. Could you testify when this change took place? A. I should judge at the beginning of the spring of 1904.

"Q. 131. Was the change more or less gradual, or rather abrupt? A. Very abrupt." 2380388

Mr. Mulholland:

This is objected to. It comes in the year 1904.

Mr. Merritt:

I will skip part of this witness's deposition because of the question that it raises, and I will read from question 539, which appears upon page 428 of the depositions.

"Q. Mr. Triest, I show you plaintiff's exhibits 1 to 12 inclusive offered in evidence at the taking of the depositions in

595

2381 Seattle in this case, and ask you to examine each one of those and state whether or not they ever came into your possession before this time? A. I recall each and every one of them with the exception of Exhibit No. 7. I never saw that in my life. I never saw it before.

"Q. I will ask you how they came into your possession? A. The ones that I have testified that were in my possession were sent me by mail in the regular course of business."

I will now read the deposition of

2382 O. A. TVEITMOE.

"Q. 1. State your name, age, residence and occupation? A. My name is O. A. Tveitmoe, age 42, residence 119 Prospect Ave., San Francisco. I am editor of "Organized Labor."

"Q. 8. Are you a member of the Building Trades Council of San Francisco? A. I am.

"Q. 3. How long have you been a member? A. Since 1899.

"Q. 4. Do you know Mr. P. A. McCarthy? A. I do.

"Q. 5. Do you know his signature? A. Yes.

2383 "Q. 6. I will ask you if that signature there on this paper is Mr. McCarthy's signature (handing)? A. That is Mr. McCarthy's signature.

"Q. 7. I will ask you whether the signature below it is your signature? A. That is my signature.

"Q. 8. I will ask you if you can state whether Mr. McCormick and Mr. Scott signed that paper as it purports to be signed? A. To the best of my recollection they did.

"Q. 9. And can you state whether or not the paper was dated as of the date when it was signed? A. I cannot say exactly whether it was dated on that date; I believe it was, as far as I can place it in my memory.

2384 "Q. 10. Can you state that even though it were not dated the exact date, it must have been signed nearly at the time it purports to be dated? A. Approximately yes."

I now offer in evidence the paper referred to.

Mr. Mulholland:

It is objected to for reasons heretofore stated, as it bears date of July 28th, 1904.

Mr. Merritt:

I will ask to have it marked Plaintiff's Exhibit 69 for identification for the time being.

(Said document marked Plaintiff's Exhibit 69 for identi- 2385
fication.)

Mr. Merritt:

I now read from the deposition of

HARRY A. KNOX.

"Q. State your name, age, residence and occupation? A. My name is Harry A. Knox, age 44, residence 1456 Harrison Street, San Francisco; occupation, superintendent of Juvenile Detention Home.

"Q. 2. Are you a union man, Mr. Knox? A. Well, 2386
not just at present, because the union that I belonged to busted up, so I am out of business myself.

"Q. 3. What union was that? A. The Street Car Men. I belonged to them a number of years after I was out of the street car business until it went out of business itself.

"Q. 4. Were you ever connected with the San Francisco Labor Council? A. I have been a delegate there, sir.

"Q. 5. During what years? A. Well, I have not been a delegate there, I don't think, for the last 7 or 8 years.

"Q. 6. Have you ever been connected with the California State Federation? A. I have. 2387

"Q. 7. During what years? A. I think it was 1903 I was elected as first vice-president. I am not sure about the years. The next year I was elected president, and the next year president again. I think it was January, 1906, that I gave up the office.

"Q. 8. You were vice-president one year? A. First vice-president.

"Q. 9. You were president for two succeeding years? A. Yes, sir.

"Q. 10. I show you a printed circular purporting to be issued by the California State Federation of Labor and 2388
dated January 30, 1904, and having attached to it the name 'Harry Know, president,' which is also printed, and will ask you whether you can place the date when you were first president of that organization by refreshing your recollection from that circular (handing)? A. I think that I can. I think this was printed and circulated just after the Fresno Convention which met on the first Monday in January, 1904. This is the resolution that was adopted at the Fresno Convention, and the Executive Board circulated the resolution as adopted by the convention.

2389 "Q. And when were you elected president as relates to those events? A. I was elected president of that convention in the first part of January, 1904.

"Q. The convention was held at Fresno? A. Yes, sir. I was elected first vice-president the year prior at Los Angeles.

"Q. I will ask you whether or not that circular contains a copy of the resolutions passed at this convention of the California State Federation of Labor? A. Yes, sir.

"Q. And I will ask you whether or not the California State Federation of Labor ever issued circulars of which this
2390 is a copy? A. The Executive Board did, yes.

"Q. Can you state from what source the California State Federation of Labor acquired its information concerning Triest & Co. and D. E. Loewe & Co., as mentioned in Plaintiffs' Exhibit 30? A. As far as my personal knowledge is concerned I cannot answer that only by referring to the resolution itself.

"Q. What is the ordinary course of procedure in reference to these matters? Is there any regular form in which the application is made to the Federation in cases of this kind? A. Well, it is the usual thing, for instance, if an affiliated
2391 union wants to further their interest in any particular way and have been opposed by their employers, they usually draft a resolution and present it to the Executive Board or Labor Council, or whatever body they are applying to, for them to either accept, reject, or amend as they see fit.

"Q. Have you any recollection of the procedure that was adopted in this particular case? A. No, sir; I have not.

"Q. But the usual procedure at that time was, as you have testified? A. Yes, sir. When anything is common knowledge, some member on the floor may present the reso-
2392 lution and draft it up himself.

"Q. Do you recall any of the discussion that took place concerning this matter at the convention at Fresno? A. Well, I know there was a good deal of discussion going on about it, but as to the exact words, or anything like that, I could not say.

"Q. Do you recall the names of the people who took part in the discussion? A. I did. I cannot name anybody else, but I know that I did.

"Q. Can you state whether or not there was any representative of the Hatters' Union present? A. From recol-

lection I cannot say. It is very likely, because the different 2393
unions or at least quite a number of the international unions usually have a representative around visiting these different conventions, the Cigar Makers' and Brewer Workers and various other organizations, but as to whether there was a member there at that particular convention I am unable to say."

Your Honor, at this point I will offer this circular, and ask to have it marked Plaintiffs' Exhibit 70.

Mr. Mulholland:

To which we object.

The Court:

You may read it. 2394

Mr. Mulholland:

An exception.

(Said document marked Plaintiffs' Exhibit 70.)

Mr Merritt:

"Office of California State Federation of Labor.

"Affiliated with the American Federation of Labor.

"State Organizer F. C. Wheeler, Box 263, Los Angeles.

"Executive Council.

"President, Harry Knox, 2074 Lombard Street, S. F. 2395

"First Vice-President, T. F. Gallagher, 652 Linden Street, Oakland, California.

"Second Vice-President, Thomas F. Lonergan, 545 Natoma Street, S. F.

"Third Vice-President, C. W. Craig, box 2087, San Pedro.

"Fourth Vice-President, T. J. White, 12 Eighth Street, S. F.

"Fifth Vice-President, C. W. Holmquist, San Diego.

"Sec.-Treas., G. S. Benham, 123 Seventh Street, S. F."

"San Francisco, January 30, 1904.

"To the Trades Unionists and Public of California: 2396

"Whereas, the United Hatters of North America have been engaged in a struggle for union conditions with the hat manufacturing concern of D. E. Loewe & Company of Danbury, Conn., since August, 1902, and,

"Whereas, Triest & Co., hat jobbers of San Francisco, are aiding Loewe & Co. to defeat the Hatters' Union by persistently handling the hats made unfair by the Loewe concern; and,

2397 "Whereas, on July 3, 1903, at a regular meeting of San Francisco Labor Council, Triest & Co. were placed on the unfair list, which action was subsequently endorsed by the Executive Council of this body, and by all of the Central bodies throughout the State; and,

"Whereas, Triest & Co. still continue to handle the unfair Loewe hats, and using every means in their power to defeat the objects of the San Francisco Labor Council and the United Hatters of North America in their fight to maintain fair wages and conditions;

"Therefore Be It Resolved, that the California State
2398 Federation of Labor in convention assembled, endorse the action of San Francisco Labor Council, our Executive Council and Central bodies in the State; and be it

"Further Resolved, that the secretary inform the retail hat dealers throughout the State not to expect the patronage of union men and women while they patronize the houses therein declared unfair by organized labor.

"The above resolution was unanimously adopted at the regular convention of the California State Federation of Labor held at Fresno, California, January 4 to January 9, 1904.

2399 "The United Hatters of North America only ask of Loewe & Co. that which prevails in over four-fifths of the factories in the felt hat industry, viz.: 'a fair compensation for labor performed.' Over four-fifths of the factories engaged in the manufacture of felt hats are union factories, 'paid fair wages for the making of hats, and use the union label of the United Hatters of North America.'

"Harry Know, President.

"G. B. Benham, Sec.-Treas."

"Q. Do you know who prepared this resolution? A. I know who prepared the printed document, and had it printed.

2400 "Q. Who was it? A. It was Mr. G. B. Benham and myself.

"Q. Did you receive any suggestions from anyone else in reference to it? A. As to the resolution?

"Q. Yes. A. The resolution itself was passed by the convention at Fresno, and we simply copied it from the convention records. The part added on beneath either Mr. Benham or I, or perhaps both of us, had a say in the matter.

"Q. 26. Would you recognize the name of any of the people through whom this matter came to your attention if you heard them? A. I presume that I would.

"Q. 27. Did you ever hear of Mr. Hennelly? A. Yes, sir. 2401

"Q. 28. And Mr. Kelly? A. Yes, sir.

"Q. 29. Did you have any conversation with either of these gentlemen concerning this matter? A. Yes, sir.

"Q. 30. As near as you can, state when you first met Mr. Hennelly, or first discussed this matter with him? A. I don't know as I can answer that to your satisfaction or anybody else's satisfaction; I certainly cannot to my own, because I do not remember. It was sometime during 1904; that is, I will not say Mr. Hennelly now, because I am sure I met Mr. Kelly before I did before I did Hennelly quite a 2402 long time. I think Mr. Hennelly came here later on.

"Q. 31. You met Mr. Kelly before you met Mr. Hennelly? A. I think so; I am quite sure.

"Q. 32. And you discussed this matter with Mr. Kelly? A. Yes, sir.

"Q. 33. Will you state what time you met Mr. Kelly in reference to this matter as relates to the dates during which this conversation at Fresno was held? A. I have met Mr. Kelly at meetings of the Executive Board while I was First Vice-president, that was in 1903; and there was some other gentleman who used to come and go with Mr. Kelly, 2403 but I cannot remember whether it was Mr. Hennelly or who it was. Whenever the Executive Committee of the State Federation meets it is always usual for an international representative, or anything like that, if they want their interest furthered, to appear before the executive board and state their case, and Mr. Kelly, along with various other representatives, appeared before the Executive Board from time to time and advocated various things that they desired.

"Q. 34. During the year 1903 when you were Vice-president, were you a member of the Executive Board? A. Yes, sir; Vice-presidents and secretary and president from 240 the Executive Board.

"Q. 35. Do you recall who this Mr. Kelly represented himself to be? A. I know that he was a representative of the hatters.

"Q. 36. Do you remember the exact name of the hatters' organization to which you refer? A. No, sir; I do not.

"Q. 37. I will show you a card and ask you if to the best of your recollection that is the name of Mr. Kelly

concerning whom you have been testifying (handing a card to the witness)? A. That is the gentleman.

"Q. 38. I will ask you whether or not that is the name of the organization which you were led to believe he represented? A. Yes, sir."

I will offer that.

(Said card marked Plaintiff's Exhibit 71.)

Mr. Merritt:

"Daniel P. Kelly.

"National Representative of United Hatters of North America. General Office 11 Waverly Place, New York City."

Then the typographical label.

"G. B. B."

"Q. 39. I will now ask you Mr. Knox, whether or not you recall anyone appearing before the Executive Board of the California State Federation of Labor in reference to Triest & Co., or D. E. Loewe & Co. during the time you were a member of that board? A. Yes, sir.

"Q. 40. Can you give the gentleman's name? A. Well, Mr. Kelly and Mr. Hennelly both have appeared before them.

"Q. 41. Can you state when Mr. Kelly first appeared before the board? A. No, sir; the only thing I can state is, when I first became a member of the board, and that was in 1903, it was during the year that Mr. Kelly had appeared before the Executive Committee.

"Q. 42. It was prior then to the convention at Fresno in 1904 in the month of January? A. Oh, yes.

"Q. 43. I will show you a picture in Plaintiff's Exhibit 27, which purports to be a picture of William C. Hennelly, and ask you whether in your opinion that is a picture of the gentleman concerning whom you have been testifying and bearing that name? A. It looks very much like that, only as I remember he had a sandy mustache, and that looks dark. He had a little small mustache. I think it is the same Mr. Hennelly.

I just called attention to the fact that in this picture printed in this exhibit you find the full name of the man is William C. Hennelly.

"Q. Could you state whether or not you recognize the full name there? A. No, sir; I don't remember it.

"Q. I will show you another circular similar to Plaintiffs' Exhibit 30, but bearing the printed signature of 'F. J. Bonnington, secretary and treasurer,' in place of 'G. B. Benham, secretary and treasurer,' which appears on Exhibit 30,

and I will ask you if you recall whether or not F. J. Bonnington was ever secretary and treasurer of the California State Federation of Labor (handing)? A. He was. 2409

"Q. Did he succeed or precede Mr. Benham? A. Succeeded.

"Q. I will ask you whether the California State Federation of Labor issued circulars of that character? A. I cannot exactly remember whether they did or not, but I feel very sure they did. It sounds natural and looks natural to me."

"Q. Will you state whether Plaintiffs' Exhibit 30 and Plaintiffs' Exhibit 32 were both issued pursuant to resolutions of the convention? A. Yes, sir. 2410

"Q. And will you state whether the resolutions at the convention in 1904 and the convention in 1905 preceded or followed the first appearance of Mr. Kelly before your Executive Board? A. Let me understand that. Read the question, Mr. Reporter.

"(The reporter reads the question.)

"A. It followed, as near as I can remember.

"Q. Will you state to whom these circulars, Plaintiffs' Exhibits 30 and 32 were sent? A. I cannot tell that; I do not know.

"Q. Can you state whether or not any of them were placed in the hands of Mr. Hennelly or Mr. Kelly? A. My recollection of the thing is— I am not sure. It is not clear in my mind. 2411

"Q. Have you any means of refreshing your recollection? A. No, sir. The records and everything that we had were destroyed in the fire. My recollection is that the State Federation of Labor mailed those circulars; that is, we folded them, placed them in envelopes, and addressed them; and I am quite sure though that Mr. Kelly furnished the stamps, put them on, and mailed them. That is my recollection. I will not say that that is the exact truth, but that is the way I remember it." 2412

I would like to say to the court here and to the jury that these references to the fire and the destruction of documents relates to the earthquake and fire in San Francisco which destroyed the city so completely.

"Q. According to your best recollection the facts are as you have just testified? A. Yes, sir.

"Q. Will you state in a general way the class of people to whom these circulars were sent? A. They were sent to

2413 the business men and different organizations; anybody that we thought we could reach to help our cause.

"Q. How did you mean, to help your cause? A. I mean to help keep them buying hats that did not bear the union label; that is what I mean.

"Q. One paragraph of this circular says, 'Whereas on July 3, 1903, at a regular meeting of the San Francisco Labor Council, Triest & Co. were placed on the unfair list,' will you state whether or not the purpose of this Federation was to raise no objection to the patronage of Triest & Co., provided they bought union hats, or whether the purpose of the

2414 convention was to raise objection to all patronage of Triest & Co., whether union or non-union.

Mr. Merritt:

I will skip a number of questions, and shorten it.

"Q. You say you took part in this discussion before your convention? A. Yes, sir.

"Q. Were you an advocate of this resolution? A. I was, a very staunch one.

"Q. And you believe in this character of agitation that is represented by these circulars? A. Yes, sir; I do very thoroughly.

2415 "Q. You are a sympathizer with the defendant in this suit? A. I am a sympathizer with the working men; I want good conditions.

"Q. I will ask you again, going back to our former question, whether or not this resolution aimed at the trade of Triest & Co. in non-union hats only, or whether it aimed at the trade of Triest & Co. in both union and non-union hats."

"Q. Will you state the class of business men to whom these circulars were sent? A. They were sent to people who handled hats and haberdashery and things like that.

2416 "Q. In what way did you compile your list of names? A. Well, if I remember rightly the secretary and I decided the best way to do that was, we had vice-presidents in different parts of the State, and in nearly every direction there was a vice-president, and it was through these different vice-presidents that those names were secured. They got the most prominent people and sent their names to the headquarters, and if I remember rightly that was the way the names were secured.

"Q. You didn't limit yourself to people whom you believed to be customers of Triest & Co., or customers of D. E. Loewe & Co.? A. Oh, yes, we did. 2417

"Q. How did you acquire the information? A. I just told you. The different vice-presidents were supposed to secure that information and forward it to the office here in the city.

"Q. Do you recall how that information was acquired in this city? A. No, sir; because I did not do any of it. I did not get any of the information any more than what would come into the office.

"Q. What is the usual method of acquiring such information when you are carrying on work of this kind? A. Going to a big hat store and asking to see different kinds of hats, and if you run across a Danbury hat just go to the proprietor and ask him to kindly quit handling the hats; tell him that you are working for the interest of the working people, and there were certain conditions they wouldn't grant to the workers. That is your only method of securing better conditions. 2418

"Q. Do you recall whether any information was acquired from Mr. Kelly of Mr. Hennelly, or any list of names for the purpose of issuing circulars?" 2419

Mr. Mulholland:

That is objected to.

The Court:

You may read it.

Mr. Mulholland:

Exception.

"Q. Do you recall whether any information was acquired from Mr. Kelly or Mr. Hennelly, or any list of names for the purpose of issuing circulars? A. I can't say what I do not remember.

"Q. Do you recall who Mr. Hennelly represented himself to be? A. If I remember rightly he represented the United Hat Workers. 2420

"Q. I show you a certain circular and ask you whether you recognize that handwriting (handing)? A. No, sir; I cannot say that I do.

"Q. I think you testified that Mr. Benham preceded Mr. Bonnington as secretary and treasurer? A. Yes, sir; that is right.

"Q. Can you state whether or not Mr. Benham was also elected some time after Mr. Bonnington retired? A.

13 2421 He was only secretary and treasurer one year of the Federation of Labor.

"Q. I show you a number of circulars, all of them copies of Exhibits 30 and 32, and ask you to explain if you can the various dates on those circulars (handing)? A. Yes, sir; I can explain it. Do you mean the difference in the dates?

"Q. Yes. A. That is very easily explained. Whenever a list of names would come in from the vice-presidents, that they would want them to go to, these would be dated and sent out.

14 2422 "Q. Can you state during how long a period of time these circulars were being sent out? A. You know this thing was practically on two years.

"Q. Then to the best of your recollection these circulars were sent out during the course of two years? A. No, sir; because there was an injunction or restraining order, or something of that kind, granted by the Federal Court, and that stopped us. I couldn't remember when it was.

"Q. The circulars were issued practically up to the time when the restraining order was granted? A. Yes, sir.

"Q. I will ask you to examine carefully these Exhibits 15 2423 30 and 32 and to note the date of the conventions mentioned in each of them, and of the secretaries' names signed to each of them, and ask whether or not you might be mistaken as to the order in which Mr. Benham and Mr. Bonnington were secretary? A. How did you understand what I said? How did you understand me to say?

"Q. I understood you to testify that Mr. Bonnington preceded Mr. Benham. A. No, sir. I said 'succeeded,' or at least I meant to say succeeded. Mr. Benham was elected at the Fresno convention the next year.

"Q. Mr. Bonnington was secretary in 1905 and Mr. 16 2424 Benham was secretary in 1904? A. Yes, sir. That is the way I intended it.

"Q. I understand that the Executive Board passed favorably on the request of Mr. Hennelly and Mr. Kelly? A. That is my recollection.

"Q. And these circulars were the result? A. No, sir, you misunderstand me. These circulars are the result of the different conventions."

"Q. 93. I show you a printed paper purporting to be 'Minutes of Quarterly Meeting of Executive Board of the California State Federation of Labor held July 12, 1903,' and I

will ask you whether or not in your opinion those minutes represent the business transacted at such a meeting on the date therein contained? A. I think they do. 2425 3

"Q. 94. What became of your official records? A. They were destroyed by the fire in 1906.

"Q. 95. Can you state from your personal knowledge of the practice of that Board how this printed paper came into existence? A. We always had the minutes printed like that so as to send them to the differnt organizations affiliated with the body so that they would know what was being done."

I offer in evidence this exhibit which is called 33 in the deposition, which I will ask to have marked Plaintiffs' Exhibit 72. 2426 1

(Said paper is marked Plaintiffs' Exhibit 72.)

Mr. Merritt:

"Headquarters of California State Federation of Labor.

"Office of Secretary-Treasurer, 37 Eighth Street, Oakland.

"Minutes of Quarterly Meeting of the Executive Board held July 12, 1903."

There are various matter, and I call attention to this one paragraph:

"Meeting called to order at 12 M. President Davidson presiding." 2427

Giving the names of those present.

"William C. Hennelly and David P. Kelly, National representatives of the United Hatters of North America, appeared before the Board and requested endorsement of a boycott against Triest & Co., 116 Sansone Street, San Francisco, and also against D. E. Loewe & Co. of Danbury, Conn. Request granted."

"Q. 96. I will ask you Mr. Knox, if you have any reasonable doubt that this circular, Exhibit No. 33, is what it purports to be? A. I think that it is a record of the minutes of 2428 that meeting.

"Q. 97. Have you any interest in the hating business personally? A. No, sir.

"Q. 98. No pecuniary interest? A. No, sir.

"Q. 99. As far as you know, none of the members of the California Federation of Labor have any pecuniary interest? A. I do not think so. I have not been connected with them for two years, so I am not prepared to say.

2429 "Q. 100. Up to the time that you were connected with them? A. No, sir.

"Q. 101. Do you recall any reason why Triest & Co. were put on the unfair list other than that they patronize D. E. Loewe & Co.? A. No, sir.

"Q. 102. These circulars, Exhibit 30 and 32" (that is Exhibit 70 in this case) "were ordinarily sent through the mail? A. Yes, sir.

"Q. 103. Did the organization ever appoint any committee to visit dealers in connection with this matter?

2430 "Q. 104. During your connection with the organization what relation did it bear to the Labor Clarion, published in this city? A. It didn't bear any relation at all to it.

"Q. 105. Was it customary for the organization to report its proceedings to the Labor Clarion? A. We usually sent them a copy of the minutes, and we used to send other papers copies of the record, the Examiner, the Chronicle and the Call.

"Q. 106. Can you state whether or not the Labor Clarion printed those minutes at any time? A. Yes, I think they did.

2431 "Q. 107. Did they usually print them? A. I can't say as to that. I don't remember whether they did or not.

"Q. 108. Did you read the Labor Clarion? A. Not very often.

"Q. 109. Was it sent you? A. It was sent to headquarters, yes.

"Q. 110. And the organiaztion had no connection with it whatsoever? A. No, sir, it had nothing to do with it at all.

"Q. 111. What officer was it that sent the minutes to the Labor Clarion? A. I am not sure, I think it was the Secretary though.

2432 "Q. 112. You know that it was customary to send them to that paper? A. I know that he was instructed, I think, if I remember rightly, by the Board to send them to all the papers.

"Q. 113. I will ask you now, Mr. Knox, to outline the organization of the California Federation of Labor? A. You mean how it was composed, or of what it was composed?

"Q. 114. Yes. A. Well, it was composed of individual unions, labor councils and things of that kind.

"Q. 115. Is it composed of delegates or individual members representing unions? A. The constitution of the State

Federation of Labor gives each union a certain representation 2433
to the conventions; for instance, if a union has five hundred members, they pay a per capita on that full five hundred membership, and that entitles them to so many representatives in the convention. The labor councils are entitled to one or two delegates.

"Q. 116. What connection, if any, did you have with the American Federation of Labor? A. We were a member of that body.

"Q. 117. Paid dues to it? A. Yes, sir.

"Q. 118. On what were those dues based? A. Well, 2434
I think the State Federation of Labor were assessed ten dollars a year for membership in it.

"Q. 119. What control, if any, did the California State Federation of Labor exercise over its local affiliated unions? A. We had no control over them. They run their own business, and we simply advised. We had no control over them at all.

"Q. 124. Can you state whether the local Hatters Union here is affiliated with the California State Federation of Labor? A. I cannot say, I am sure; I don't know, I have forgotten.

"Q. 125. Can you state whether the San Francisco 2435
Labor Council is affiliated with the California State Federation of Labor? A. It was when I was President. I don't know whether it is now or not.

"Q. 126. And it was when you were Vice-President? A. Yes, sir.

"Q. 127. Is the Alameda Council affiliated, or was it affiliated when you were an officer? A. The Alameda Labor Council affiliated with the Federated Trades?

"Q. 128. A. Yes. A. Yes, sir."

Will you read the cross?

Mr. Beach: 2436

No.

Mr. Merritt:

Now I will read the deposition of

R. I. WISLER.

"Q. 1. State your name, age, residence and occupation? A. My name is R. I. Wisler, age 37, residence Mill Valley, Marin County, California; occupation, a salesman.

2437 "Q. 2. Salesman in what business? A. Printing—badges, buttons and regalia.

"Q. 3. Are you a union man? A. I am.

"Q. 4. And a member of what union? A. Machinists.

"Q. 5. How long have you been a member of the machinists union? A. Seventeen years.

"Q. 6. Is that union affiliated with the San Francisco Labor Council? A. Yes, sir.

"Q. 7. Have you ever been connected yourself with the San Francisco Labor Council? A. I have and I am.

2438 "Q. 8. For how long have you been connected with it? A. For about eight years.

"Q. 9. In what capacity? A. As a delegate and as secretary for some time.

"Q. 10. During what period were you secretary? A. From July, 1903, until about the end of June, 1905.

"Q. 11. Who was your predecessor in office? A. T. E. Zant.

"Q. 12. This council, I understand, is made up from delegates of local unions here in San Francisco? A. Yes, sir.

2439 "Q. 13. Can you say approximately how many unions are affiliated? A. At that time there were about 130.

"Q. 14. And each union paid dues to the council? A. Yes, sir.

"Q. 15. Was there an executive committee? A. Yes, sir.

"Q. 16. Who composed the executive committee? A. Various delegates of the council.

"Q. 17. Were they officers, the members of the executive committee? A. The Secretary and the President of the Council are members of the executive committee.

2440 "Q. 18. Is the council affiliated with the American Federation of Labor? A. Yes, sir.

"Q. 19. Is it affiliated with the California State Federation? A. Yes, sir.

"Q. 20. I show you a pamphlet which purports to be the constitution and by laws of the San Francisco Labor Council as revised on the second day of September, 1904. Will you examine that and state whether or not you believe that to be a copy of the constitution and by laws of that organization on the date therein set forth? A. I believe it is.

"Q. 21. You have no reasonable doubt in regard to it? A. No." 3441448

Mr. Merritt:

"Q. 22. Will you state how the official records of the Council are kept? A. The Secretary usually takes them down on a scratch book or loose sheets of paper, dictates them the following morning to a stenographer who transcribes them on the typewriter, and one copy is filed away in the regular minute book, another copy furnished to the editor of the Labor Clarion, who prints them in the official paper of the Council, and at the following meeting they are read by the delegates at the regular meeting, and are either approved or if necessary corrected. 2442150

"Q. 23. What is the official paper? A. The Labor Clarion.

"Q. 24. How long has it been the official paper? A. Ever since it was started by the San Francisco Labor Council, about eight years.

"Q. 25. Did the San Francisco Labor Council start the Labor Clarion? A. It did.

"Q. 26. Does it control it at all at present? A. It does.

"Q. 27. To what extent? A. The Labor Council elect a board of directors from the delegates to the Council and controls the paper in that way. 2443 51

"Q. 28. And the profits of the paper, if any, belong to the Council? A. The paper as a whole belongs to the Council. There is generally a deficit instead of a profit.

"Q. 29. Have you any of the minutes of the meetings of the Council? A. None whatever.

"Q. 30. Do you know what has become of the scratch book that you spoke of? A. I turned it over when I surrendered my office to my successor, Mr. McCabe, and while I have looked over it several times I have not seen it since the fire in 1906. 2444 52

"Q. 31. Do you know whether or not it was destroyed at the time of the fire? A. To the best of my belief it has been destroyed.

"Q. 32. Can you state whether or not you have any copies of the Labor Clarion for the years 1903 or 1904? A. I have not.

"Q. 33. Can you state where the official files of the Council are containing the Labor Clarion for the years 1903,

2445 1904 and 1905? A. At the office of the Labor Clarion, 316 Fourteenth Street.

"Q. 34. Do you know that they are there? A. I looked them over there a few days ago; I guess they are there yet.

"Q. 35. In whose possession are they? A. They are in the possession of the editor of the Labor Clarion.

"Q. 36. I show you certain papers which purport to be copies of the Labor Clarion, and I ask you whether or not they are copies of the Labor Clarion, which was the official record of the minutes of the meetings of the San Francisco 2446 Labor Council for the respective dates which the respective copies bear? (Handing.) A. To the best of my knowledge and belief they are."

I offer those.

Mr. Mulholland:

For what purpose, Mr. Merritt, do you offer this?

Mr. Merritt:

They are offered because they contain the minutes of the meetings of the San Francisco Labor Council boycotting D. E. Loewe & Company and Triest & Company and printing them on the unfair list, and they were published—

2447 Mr. Mulholland:

(Interrupting.) As showing publicity?

Mr. Merritt:

I offer them as showing the fact.

The Court:

You may read it.

Mr. Mulholland:

An exception.

Mr. Merritt:

I will first read from the Labor Clarion for July 24th, 1903.

2448 "Labor Clarion, Official Journal of San Francisco Labor Council of the State Federation of Labor.

"The following firms and corporations have persistently refused to concede to their employes conditions that have been frequently granted by competitors, having been declared unfair by the San Francisco Labor Council and the union men and women as well as friends of the organized workers are requested to withdraw their patronage from these concerns until such time as their employes are granted fair conditions (the

name of the union at whose request the boycott was levied follows that of the unfair concern)." 2448

Then follows seven concerns, and the names of "Triest & Co., jobbers in hats, 116 Sansome Street.—Hatters Union."

Then I will read from the Labor Clarion for Friday, September 4th, 1903, on page 10.

"San Francisco Labor Council. Synopsis of Minutes, August 28, 1903.

"Called to order at 8:15 P. M. by President Benham.

"Minutes approved."

Then I skip a considerable part of the minutes.

"The Secretary was instructed to do a number of things, and among them 'Call upon firms purchasing hats from Triest & Co.' Report adopted as a whole." 2450

From the Secretary's report I read the following. This appears in the minutes of the Council.

"Called on Carroll & Tilton and requested them to discontinue purchasing hats of Triest & Co.; stated they were not buying many, but gave no definite answer; Emporium stated they were buying very few hats from Triest & Co., and if possible will discontinue purchasing any; Roos Brothers will see about it; Kahn Brothers will stop it if it is a case of boycott; K. Meussdorffer will stop purchasing from Triest; Cohl Brothers likewise will stop. Failed to see Schoenfeld and Selig. 2451

"Adjourned at 11:35 P. M. Respectfully submitted, R. I. Wisler, Secretary."

Recess 15 minutes.

Mr. Merritt:

I will read one more extract from the Labor Clarion for July 24, 1903, from which I have already read on page 2.

"Synopsis of Minutes July 17th, 1903. 1159 Mission Street.

"The meeting called to order at 8:45. President Benham in the chair. Minutes of previous meeting adopted." 2452

Then later on this follows:

"Ordered that list of boycotts in effect be published in 'Labor Clarion.'"

And then I read from the Labor Clarion for July 24th, 1903, a further extract from page 12 under head of "Retail Clerks."

"The Retail Clerks, Local Number 432, at its last regular meeting endorsed the boycott levied by the Labor Council

2453 against Triest & Co., jobbers, 116 Sansome Street, who persist in handling the product of D. E. Loewe & Co. of Danbury, Conn., non union hat manufacturers."

Mr. Mulholland:

That was not an extract from the minutes of the organiation. That is simply news, is it not?

Mr. Merritt:

Yes.

Mr. Mulholland:

That we object to.

The Court:

2454 Well, they can read that.

Mr. Mulholland:

Save an exception.

Mr. Merritt:

Now I read from the Labor Clarion for September 18, 1903, and I read from page 2 of the minutes of the San Francisco Labor Council.

"Synopsis of minutes September 11, 1903.

"Meeting called to order at 8:10 by President Benham. Minutes approved."

Under the head of "Report of Secretary."

2455 "Called on Schoenfeld who gave no definite answer as to purchasing more hats from Triest & Co.; having received information that since that time more hats were purchased. Selig stated he would cut off the purchasing of hats from Triest as much as possible; has also purchased hats from Triest since that time."

The minutes are signed "R. I. Wisler, Secretary."

I will read for the Labor Clarion of September 25, 1903, and from the minutes of the San Francisco Labor Council, page 2.

"Synopsis of minutes September 18, 1903.

2456 "Meeting called to order at 8:15 p. m. by President Benham. Minutes of previous meeting approved."

Mr. Mulholland:

If the court please, that date, September 18, we also object to as being after the commencement of this action. We raise the same question that was raised awhile ago.

The Court:

You may read it.

Mr. Mulholland:

Exception.

Mr. Merritt:

I read from "Reports of Unions." 2457

"Hatters—fair; boycott on Triest & Co. progressing."

Then I read from "Report of Secretary."

"Wrote letters to Schoenfeld, Selig, Emporium, Roos Brothers, Meussdorffer, relative to purchasing hats from Triest & Co. Have received answer from Schoenfeld, who agrees to purchase no more hats from that concern. Called on M. Hart and B. Roman. Mr. Roman agrees to purchase no more hats; Hart gave no answer."

I will read from page 12 of the same labor Chronicle.

Mr. Mulholland:

That is objected to, as not being contained in the official minutes of the Central body, but merely a news item, and because it is published later than the date of the commencement of this action. 2458

The Court:

What date is that?

Mr. Merritt:

September 25.

The Court:

You may read it.

Mr. Mulholland:

Exception. 2459

Mr. Merritt:

"The Lowe Hat Company of Danbury has brought suit for damages in the sum of $350,000 against the United Hatters and the American Federation of Labor. Lowe & Co. is unfair, and a very effective boycott has been carried on against their product. Triest & Co., jobbers, a concern in this city, have been declared unfair because they persisted in handling the product of the Lowe Company."

Now I read from the Labor Clarion for January 29, 1904, and from page 10, minutes of San Francisco Labor Council for January 22, 1904. 2460

Mr. Mulholland:

We object.

The Court:

For what purpose is that offered?

Mr. Merritt:

It is only offered for the one purpose, that the existence of a labor combination like this on the 22nd of January, 1904, is not only good evidence, but very strong evi-

2461 dence that the combination was in existence on the first of September, 1903.

The Court:

For that purpose it is admitted.

Mr. Mulholland:

I understand you disclaim any theory of introducing this as affecting damages?

Mr. Merritt:

Absolutely.

Mr. Mulholland:

Save an exception to that.

2462 Mr. Merritt:

"Communications from Stockton Retail Clerks asking information relative to Triest's boycott, complied with."

Then I read from page 12 under the head of "Cloak Makers."

"President Harry Knox, and Secretary-Treasurer George B. Benham of the State Federation of Labor addressed the Cloak Makers," etc.

Mr. Mulholland:

We object to it. Exception.

Mr. Merritt:

2463 "Communication was received from the State Federation of Labor relative to the boycott on Triest & Co., jobbers, who persist in handling unfair hats. The union responded by pledging its members to withhold patronage from firms that continued to deal with Triest & Co."

Signed by the secretary of the Cloak Makers.

Mr. Mulholland:

Cloak Makers? It is objected to. Save an exception.

Mr. Merritt:

Then there is published here on page 12 a copy of Plaintiff's Exhibit 70, which are resolutions passed by the

2464 State Federation of Labor of California at the Fresno Convention boycotting D. E. Loewe & Company and Triest & Company. I won't read them again.

I will pass for the time being reading any extracts from any of the labor editions of the Labor Clarion relative to this matter.

"Q. 37. I will ask you whether or not you have ever seen the circular of which this is a copy (handing him one)? A. I think I have.

"Q. 38. Was it a circular issued by the San Francisco Labor Council? A. I believe so."

After showing him that circular I ask him: 2465

"Q. 40. Were you present at a meeting of the Council when this matter was brought up before it for consideration? A. I don't know. Can you fix the date?

"Q. 41. June 26th, 1903, is the date, as I understand it, that the matter was taken up by the Council. That is the date given in 'Plaintiffs' Exhibit 55.' A. Well, if that is the date given, the matter was in the hands of the Council prior to that time. I cannot recall whether I was present, or not.

"Q. 42. Do you recall the matter being discussed at any meeting of the Council when you were present? A. I 2466
do.

"Q. 43. Can you give us any of the discussion? A. I cannot.

"Q. 44. Referring to the meeting that you have in mind, do you recall whether or not it was the first time that the matter had come up before the Council? A. I don't think it was.

"Q. 45. Do you recall the purpose of the discussion at the meeting which you slightly recall? A. For the purpose of discouraging the sale of the hats manufactured by the D. E. Loewe Company.

"Q. 45. Do you recall the action that was taken by 2467
the Council at that meeting? A. To the best of my knowledge the Council placed the product of the firm of D. E. Loewe & Company of Danbury on the 'We Don't Patronize List' of the Labor Council.

"Q. 47. Was there anything done about Triest & Company as stated in this circular, at that meeting at which you were present? A. I believe the subject came up that Triest & Company were the distributors of the products of D. E. Loewe & Co.

"Q. 48. What action did the Council take in regard 2468
to Triest & Co.? A. I believe that the matter was referred to its Executive Committee.

"Q. 49. Were you a member of that committee? A. Not at that time.

"Q. 50. You were not present at any of the meetings of the committee to which that was referred? A. Not at that time.

"Q. 51. Do you recall what the report of the committee was back to the Council? A. As far as I can recollect the report of the committee was that Triest & Co. were

1469 the distributors for D. E. Loewe & Co. for the Pacific Coast.

"Q. 52. What action was taken, if any, on the basis of that report? A. The Council placed Triest & Co. also on the 'We Don't Patronize List.'

"Mr. Frost:

"Q. 53. It was called then the 'Unfair List,' was it not? A. At that time it had various names.

"Mr. Merritt:

"Q. 54. I show you 'Plaintiffs' Exhibit No. 25' and ask you whether or not that is your signature (handing)?

1470 A. I believe it is.

"Q. 55. Will you state how you came to write that letter? A. I was instructed by the Council to call upon Mr. Meussdorffer and to request his discontinuance of the handling of the D. E. Loewe hats handled by the Triest Co. Mr. Meussdorffer gave me his promise that he would so discontinue; later on we found that he failed to keep his word and that was the cause of that letter."

I offer that letter in evidence.

Mr. Mulholland:

Which one is that?

1471 Mr. Davenport:

San Francisco, September 14, 1903.

Mr. Mulholland:

We object, same objection, subsequent letters; save an exception.

(Said document marked Plaintiff's Exhibit 73.)

Mr. Merritt:

"San Francisco Labor Council.

"Secretary's Office 927 Market Street (Rooms 404, 405, 406 Emma Spreckels Bldg.)

"Telephone South 447.

1472 "No. 415, Ex. 25.

Affiliated with The American Federation of Labor. Meets Every Friday at 1159 Mission St. Address all communications to 927 Market St.

"San Francisco, Sept. 14, 1903.

"K. Meussdorfer,

"Kearney St.

"Gentlemen:—Some time ago I called on you with reference to a transfer of your patronage to some other concern besides Triest & Compaay, jobbers in hats, and was led to believe by the answer given me at that time that you

would so transfer your patronage; information has reached 2473
this office that since my visit goods have been purchased by you from Triest & Company. I again urge that you discontinue your patronage of the above firm in order that the San Francisco Labor Council may not be placed in a position of stating to the purchasing public that your concern is not acting fairly toward organized labor.

"Awaiting a favorable reply I remain,

"Respectfully,

"R. I. Wisler,

"Secretary San Francisco Labor Council."

Then there is the seal: "San Francisco Labor Council. 2474
In Unity is Strength."

Mr. Merritt:

"Q. 56. Was your request to Mr. Meussdorffer limited as you testify, to the Union goods of Triest & Co.? A. It was limited to the goods handled by Triest & Co.

"Q. 57. All goods handled by Triest & Co.? A. All goods.

"Q. 58 I show you a letter dater October 12th, 1903, addressed to Mr. H. Summerfield, purporting to be your signature. Will you state whether or not that is your signature? A. I believe it is.

"Q. 59. And is that your signature? A. I believe it 2475
is."

Mr. Merritt:

I offer that letter, and I limit my offer as I did before, to the letter subsequent to the date of the suit.

Mr. Mulholland:

That is, making no claim that it affects the question of damages in this case?

Mr. Merritt:

Correct.

(Said letter marked Plaintiff's Exhibit 74.)

Mr. Merritt: 2476

"San Francisco Labor Council." The same heading as the last exhibit.

"San Francisco, October 12, 1903.

"Mr. H. Summerfield, 947 Market street.

"Dear Sir: When calling on you some time ago with reference to purchasing of hats from Triest & Co. by your concern, I understood you to make the statement that you would transfer your patronage from Triest and Co. to some other concern. Since that time we have learned that you

2477 have again purchased hats from the above named concern, and we again request that you transfer your patronage to some other hat jobber in this city in order that we may not be compelled to class you among the concerns antagonistic to organized labor in this city.

"Very truly yours,

"R. I. Wisler,

"Secretary San Francisco Labor Council."

"Q. 60. Can you state whether or not you sent this letter out pursuant to instructions of the San Francisco Labor Council? A. I think I did. Some of these letters
2478 were sent out without instructions from the Council. The matter was placed in the hands of the secretary, and he could use his own judgment about attempting to carry out the instructions of the Council.

"Q. 61. But you would not send out letters of that kind without some instruction? A. Not without some instruction.

"Q. 64. Will you state whether the efforts of the Council to discourage the patronage of Loewe or Triest were limited to the issuance of circulars? A. To the issuance of circulars and to committees visiting the various
2479 unions, urging them to buy nothing but union-made hats.

"Q. 65. Is that all that you recall that was done for this purpose? A. That is all so far as the Council is concerned.

"Q. 66. These circulars and these visits to the various unions were not limited to union-made hats, were they? A. What do you mean?

"Q. 67. You testified concerning visits to the unions for the purpose of discouraging them from buying anything but union-made hats. Now, in the case of Triest & Co., was it or was it not the fact that they handled both
2480 union and non-union goods? A. To the best of my knowledge I believe they handled both union and non-union goods.

"Q. 68. Were these visits to which you refer limited to discouraging the patronage of the non-union goods sold by Triest & Co.? A. Limited to the discouragement of the patronage of Triest & Co.

"Q. 69. And it included the sales of union hats by Triest & Co., as well as the sales of non-union hats? A. It did.

"Q. 70. As far as you recollect just now, that was the extent of the operations of the Council in this connection? A. As far as I recall now. 2481

"Q. 71. Were your operations personally limited in the same way? A. No.

"Q. 72. Will you state what else you did to this end? A. Well, when information reached the office of the Labor Council that any hat dealer in the city whom we could reach by a personal visit was purchasing from Triest & Co., or the product of D. E. Loewe & Co., I made visits to the concern.

"Q. 73. Do you recall who you visited? A. I believe I visited Kahn Brothers, Meussdorffer, B. Roman, Summerfield & Haynes. That is all I recall now. 2482

"Mr. Frost:

"Q. 74. Would you remember the names of the others if you heard them? A. I might.

"Q. 75. Hart? A. I don't think I ever visited Hart.

"Q. 76. Roos Brothers? A. I can't say.

"Q. 77. The Emporium? A. I never visited the Emporium, to my knowledge, on that question.

"Q. 78. Benjamin Selig? A. Yes, Selig right here on Market street.

"Mr. Merritt: 2483

"Q. 79. Do you recall visiting Carroll & Tilton? A. I do not.

"Q. 80. Do you know Mr. Hennelly? A. I do.

"Q. 81. Do you know Mr. Kelly? A. I do. You mean Mr. Kelly, of the Hatters?

"Q. 82. Yes. A. I do.

"Q. 83. Mr. Dan P. Kelly? A. Of the Hatters.

"Q 84. Who did he represent himself to be? A. This particular Kelly represented himself to be from the Hatters' Union of North America.

"Q. 85. What was the case with Mr. Hennelly? A. The same. 2484

"Q. 86. When did you first meet them? A. I met Mr. Kelly in the latter part of the year 1902.

"Q. 87. I will ask you whether or not either or both of these gentlemen ever appeared before your Council? A. Both did.

"Q. 88. In what connection? A. Representing the Hatters.

247 2485 "Q. 89. What was the purpose of their visit? A. They had numerous visits there; some of them were promoting the sale of union-made hats and others for the discontinuance of patronizing the products of the D. E. Loewe & Co., of Danbury, Conn., and the agents of Loewe.

"Q. 90. Who do you mean by the agents of Loewe? A. The various hat distributors throughout the country who carried his good.

"Q. 91. What treatment did the San Francisco Labor Council give them? A. It accorded them a very respectful hearing.

247 2486 "Q. 92. What action did it take on their application? A. I believe they placed the product of the D. E. Loewe & Co. on the 'We Don't Patronize List.'"

"Q. 93. What action, if any, concerning the agents of D. E. Loewe & Co.?"

"A. There was only one agent I recall, Triest & Co., and we gave them the same treatment as we did D. E. Loewe.

"Q. 94. Do you recall how many times these men appeared before the Council? A. I do not.

247 2487 "Q. 95. Do you recall the dates when they appeared? A. I do not, no.

"Q. 96. Could you tell me what relation in point of time their first apearance before the Council bears to this 'Plaintiff's Exhibit 55'? A. What is the date of it?

"Q. 97. September 6, 1904? A. I think they appeared before the Council about a year prior to that.

"Q. 100. What other action, if any, did the San Francisco Labor Council take in reference to the requests of Mr. Hennelly and Mr. Kelly? A. That is the only action that I know of.

248 2488 "Q. 101. Did they co-operate with them in any other way in this matter? A. Not except only on the lines I have given.

"Q. 102. Did these gentlemen or either of them come frequently to your offices? A. I think they came there sometimes once or twice a week; sometimes every day. Quite often I met the gentlemen on the street and chatted with them.

"Q. 103. Were they given the use of your rooms? A. They were given the same courtesy we extend to all Labor representatives, free access to the rooms.

"Q. 104. Have you any of the communications that were received from any of the Eastern offices of the United Hatters? A. I have not. 2489

"Q. 105. Do you know whether they are in existence? A. I do not.

"Q. 106. You cannot say whether they were destroyed by the fire? A. No, I cannot. I can make a long guess at it, I think they were; in fact, all the records of the Council were destroyed at that time.

"Q. 107. Can you state who bore the expense of this boycott on Triest & Co? A. To the best of my knowledge the San Francisco Labor Council. 2490

"Q. 108. Did any other unions contribute to it? A. I cannot say.

"Q. 109. If it should appear, Mr. Wisler, from the records in the various 'Labor Clarions' that have been introduced in evidence that you had visited other houses besides those concerns which you testified to, what would be your opinion as to the accuracy of these records in that particular? A. In the official minutes of the Council?

"Q. 110. Yes. A. I believe they would be correct.

"Q. 111. You would believe them to be correct even though you had no recollection of your making the visits? A. I would. 2491

"Q. 112. Did any of the members of the Labor Council have any special interest in any hatting business so far as you know, at the time when these circulars were sent out? A. No, sir.

"Q. 113. Do you know of any other reason why Triest & Co. were regarded as unfair by organized labor other than the fact that they patronized D. E. Loewe & Co.? A. I do not.

"Q. 114. The list of firms against whom boycotts are levied appears published in the Labor Clarion, does it not? A. The list appears in the Labor Clarion under the 'We Don't Patronize List.' 2492

"Q. 115. Has it always been under that title? A. It has not.

"Q. 116. What other titles have been used? A. 'Unfair List.'

"Q. 117. Has there been any other title? A. Not that I recall.

"Q. 118. Do you recall whether the name 'Boycott List' was not there? A. The name 'Boycott List' has been

2493 used in a good many instances and for a number of years.

"Q. 119. Will you state the order in which those three names were used, so far as you can recollect? A. So far as I can recall, the 'Boycott List' was the first list published.

"Q. 120. And then what title was used? A. 'Unfair.'

"Q. 121. And then what title? A. 'We don't patronize.'

"Q. 122. Will you state whether the meanings of these various terms heading the various lists as they do
2494 are different or the same to you? A. They are three statements of fact.

"Q. 123. Will you state whether or not the purpose of the three titles is the same, or the purpose of the three lists? A. That all depends upon the individual construction of the man who reads it.

"Q. 124. You were a member of the Council for a number of years? A. Yes, sir.

"Q. 125. You have been a union man for a good many years? A. Yes, sir.

"Q. 126. You are familiar wtih the terminology of
2495 unions, and I am asking you whether or not the publication of these lists under these three respective titles serves the same purpose or a different purpose? A. The list of firms publishd under the heading of a boycott list may mean to the trades unionist that those concerns are boycotted and he may not have anything to do with them; he may be asked not to have anything to do with them. That is a statement of a fact. Of the 'Unfair' list, it is also a statement of fact.

"Q. 127. Of what fact in the case of the 'unfair' list as compared with the case of the 'boycott' list? A. These
2496 firms may not be treating their employes who may be members of organized labor fairly; in other words, granting them the conditions that they desire.

"Q. 128. How does the attitude or the desired attitude of the average union man in reference to the 'boycott' list differ from his attitude in reference to the 'unfair' list? A. The desired attitude may differ in so far as the action required by the union appealing may come.

"Q. 129. How does the end which you seek to attain by the publication of the 'boycott' list differ from the

end which you seek to attain by the publication of the 'unfair' list? A. With the 'boycott' list the end sought is to have the friends of organized labor refuse their patronage to the concern. With the 'unfair' list they may refuse and may not. It is not compulsory in either case. 2497

"Q. 130. In the case of the 'boycott' list it is compulsory? A. It is not compulsory in either case.

"Q. 131. There is no difference in them in that respect? A. A man might use his own judgment.

"Q. 132. You have not given me any difference, then, between the 'boycott' list and the 'unfair' list? A. If that is your conception of it, you may have it so. 2498

"Q. 133. If there is any difference, please give it? A. As I said before, it is the construction of the individual member.

"Q. 134. I am asking you as an expert? A. I am not an expert.

"Q. 135. I am asking you your interpretation of these terms based upon your past connection with various labor unions? A. My interpretation of these terms is to leave the people alone.

"Q. 136. In either case? A. In any case.

"Q. 137. Then, in your interpretation there is no difference between the 'boycott' and the 'unfair' list? A. Well, there is a difference. 2499

"Q. 138. I wish you would give it to me? A. Well, the 'boycott' list, as I said before, is to keep patronage away from the concern. The 'unfair' list may be a notice to the friends of the organization in controversy that the people are unfair; they don't have to refuse their patronage if they don't want to.

"Q. 139. In the case of the 'boycott' list, they have to refuse it whether they want to or not?

"Mr. Beach: 2500

I object to that.

"Mr. Merritt:

That is following absolutely the lines of the witness' answer.

"A. I said before they did not have to if they didn't want to in any case; just read my testimony before that.

"Q. 140. What is the construction of the 'We don't Patronize' list; how does that compare with the 'boycott' list? A. Leave them entirely alone.

2501 "Q. 141. Is there any difference, in your mind, between the 'We don't Patronize' list and the 'boycott' list? A. There may be quite a difference in it.

"Q. 142. What is the difference, please? A. The difference is in drawing my own conclusion about the concerns posted on those lists.

"Q. 143. What are your conclusions? A. It all depends on the concern and the controversy.

"Q. 144. Supose you don't know anything about the concern, what is the difference in your mind between it appearing on the 'boycott' list and it appearing on the
2502 'We don't Patronize' list? A. The 'boycott' list is out of date; they are all posted on the 'We don't Patronize' list at the present time. We leave them alone.

"Q. 145. Does the 'We don't Patronize' list take the place of the 'boycott' list? A. It apparently has.

"Q. 146. Does it take the place of the 'unfair' list? A. It appears so.

"Q. 147. Mr. Wisler, you testified, did you not, in the case of the D. E. Loewe Co. et al. vs. The California State Federation of Labor? A. I don't recall; if I did it is in the record.

2503 "Q. 148. You have no recollection of testifying in that case? A. I testified in some case in reference to D. E. Loewe & Co., but whether it was in the California State Federation or the Labor Council, I don't recall.

"Q. 149. Do you remember who examined you? A. Mr. Frost.

"Q. 150. For the purpose of refreshing your recollection I read from the testimony given by you in that previous examination in the case of D. E. Loewe & Co. vs. The California State Federation."

Mr. Mulholland:

2504 That is objected to. This is their witness.

Mr. Merritt:

We are not trying to contradict him at all.

The Court:

You may read it.

Mr. Mulholland:

An Exception.

Mr. Merritt:

This is the testimony I am reading from.

" 'Q. How are the expenses of a boycott, such as the 'boycott against Triest & Co. that was levied on behalf of an international union outside of San Francisco, borne? A. Well, sometimes they are paid by the Labor Council and sometimes by the local union in the locality, and sometimes by the national. Q. How was that done on the case of the boycott against Triest & Co.? A. I believe that the expense was divided between the three parties. Q. How? A. Among the three parties. Q. What three parties? A. The national, the local and the labor unions. Q. The Labor Council, the Local Hatters' Union and the United Hatters of North America? A. Yes.' 2505 2513 2506 514

"I read this for the purpose of refreshing your memory, Mr. Wisler. I ask you whether or not you have any recollection now as to how the expenses of the boycott of Triest & Co. were shared? A. I have not.

"Q. 151. Can you state whether or not the facts concerning which you testified as I have read were true? A. That testimony was given; it is transcribed correctly, I believe.

"Q. 152. Have you any recollection of testifying in that way? A. I have.

"Q. 153. And have you any recollection whether or not it was true, according to your recollection at the time? A. It was. 2507 515

"Q. 154. But you have no recollection, outside of my reading this record, as to the facts concerning which you have testified? A. I believe now the facts I testified to there were correct.

"Q. 155. In other words, your recollection is refreshed by my reading you this record? A. It is."

Is there anything on the cross you want?

Mr. Beach:

Nothing in the cross examination. 2508 16

Mr. Merritt:

I now read from the deposition of

WILLIAM McCABE,

deposition taken in San Francisco.

"Q. 1. State your name, age, residence and occupation? A. My name is William McCabe, age 39. I reside at 1651 15th Avenue, South. I am a clerk now.

2509 "Q. 2. Are you connected with the San Francisco Labor Council to-day? A. Yes, sir.

"Q. 3. Are you secretary? A. No, sir.

"Q. 4. You are just a delegate? A. Just a delegate.

"Q. 5. When were you secretary? A. 1905; June up to October, 1907.

"Q. 6. Do you recall testifying in the case of Loewe against the State Federation of Labor, when Mr. Frost examined you? A. Yes, sir, I recall that.

"Q. 7. Do you recall whether or not you were secre-
2510 tary at that time? A. I was, yes.

"Q. 8. Do you recall bringing with you any books or papers? A. Yes, sir.

"Q. 9. Do you recall bringing with you a letter press book? A. Yes, sir.

"Q. 10. Do you know what has become of that book? A. It was destroyed in the fire, I believe.

"Q. 11. Do you recall finding in that book certain letters that were introduced in evidence at that time? A. Yes, sir.

2511 "Q. 12. Do you recall from whom those letters were and to whom? A. No, sir; possibly, if I would hear the testimony it might refresh my memory a little bit.

"Q. 13. Were the letters addressed to John Moffitt? A. I cannot say.

"Q. 14. I will show you a copy of the testimony which you gave in that case and ask you to refresh your memory? A. I can remember seeing that.

"Q. 15. You remember seeing that letter in that testimony which I show you? A. Yes, sir, something to that effect.

2512 "Q. 16. Where did you see the letter? A. A copy of it I saw.

"Q. 17. Where did you see the copy? A. In the Labor Council.

"Q. 18. In the letter press book? A. Yes, sir.

"Q. 19. Did that book contain the copies of the correspondence of the Labor Council? A. Yes, sir.

"Q. 20. And it came into your possession as one of the things belonging to the office of secretary? A. Yes, sir.

"Q. 21. To the best of your recollection that is a copy of a letter? A. Along those lines; I could not say word for word. 2513

"Q. 22. The substance of it is? A. Something similar. I was not secretary at the time, but I believe a letter along those lines was introduced in evidence at the time I gave my testimony. I cannot say which letter it was. I know there were several letters like that produced."

Mr. Mulholland:

Was this letter called to the attention of Zant?

Mr. Merritt:

No, I don't think so. 2514

Before I offer this letter, your Honor, I will turn to the depositon of

BRAINERD C. BROWN,

which further identifies the letter.

"Q. Mr. Brown, I will ask you whether or not you reported this testimony and transcribed it in the case of D. E. Loewe & Co. et als vs. the California State Federation of Labor, in the United States Circuit Court for the Northern district of California, before Commissioner Heacock? A. Before Examiner Heacock, yes, I did. 2515

"Q. Do you recall reporting the testimony of William P. McCabe? A. I do.

"Q. I show you a copy of a letter from John A. Moffitt to T. E. Zant, on the back of which appears in writing, 'In the U. S. Circuit Court of California, D. E. Loewe & Co. versus the California State Federation of Labor, et als.; Complainants' Exhibit No. 60, E. H. H., Examiner', and referring to that portion of the matter which I have read which is in writng, I will ask you whether you know that handwriting? A. I do. 2516

"Q. Whose is it? A. E. H. Heacock, Examiner in Chancery, before whom that testimony was taken.

"Q. How are you familiar with Judge Heacock's handwriting? A. Seeing him write many times.

"Q. Are you willing to testify that that is the exhibit that was introduced in that case and numbered 60? A. Yes, sir, with this qualification; having read the testimony which just preceded the introduction of that exhibit, as I remember it what was introduced as the exhibit was

2517 the letter press copy book, and this was permitted to be introduced by stipulation as a copy."

Now I ask that these letters be marked at this point Plaintiffs' Exhibits 75 and 76 for identification.

There are 3 or 4 of those letters pending, and I don't know as we can carry the circumstances surrounding their introduction.

(Said papers marked Plaintiffs' Exhibits 75 and 76 for identification.)

Mr. Merritt:

2518 I now read from the statement of

MR. CHARLES A. FROST.

"Mr. Merritt:

Mr. Frost, I show you Plaintiffs' Exhibit 84 and 85 and ask you to make a statement concerning them? A. These are copies of letters appearing in the letter press book of the San Francisco Labor Council. That letter press copy book was produced by William P. McCabe, the then secretary of the Council, and who was a witness in the case of D. E. Loewe & Co. vs. The California State
2519 Federation of Labor. I was one of the attorneys in that case, and I interrogated Mr. McCabe on that occasion. Previous to giving his testimony I visited Mr. McCabe at his office in San Francisco, and saw the letter press copy book there, and he afterwards produced it at the trial. At that time I compared these copies with the letter press copy book, and I know that they are correct copies of the letter press copies of the original letters as they appeared in the book at that time.

"Q. Of the copies that appeared in the book at that time? A. Yes, sir."

2520 And now I turn back to the deposition of

MR. WILLIAM McCABE,

which I was reading, and I will offer in evidence these two letters Exhibits 75 and 76 for identification.

Mr. Mulholland:

Both of these are objected to, if the court please.

The Court:

2521 (Interrupting) The letters are admitted subject to the defendants' exception.

(Said letters already marked Plaintiffs' Exhibit 75 and 6 for identification respectively, are now marked Plaintiffs' Exhibits 75 and 76.)

Tuesday, September 10th, 1912, 10:00 A. M. Morning Session.

The Court:

Proceed.

Mr. Merritt:

2522 Now I will offer in evidence—or I think they were received in evidence last evening as "Plaintiffs' Exhibit 75 and 76.

Mr. Mulholland:

I think the court had ruled upon it but we had not noted our exceptions. Note our exceptions now.

Mr. Merritt:

These are letters taken from the letter press copy book of the San Francisco Labor Council: "San Francisco, February 18th, 1903. Mr. John A. Moffitt, President United Hatters of N. A., 24 Lincoln Place, Orange, N. J. Dear Sir and Brother: In reply to your telegram of the 2523 10th and letter of the 12th will state that after interviewing members of the Hatters' Union we visited Mr. Triest of 116 Sansome Street, who received us kindly, and promised emphatically that he would close up his business with D. E. Loewe Hat Co. and that he would immediately write to said firm to the effect of his negotiations and would gladly show us the answer.

"Wishing you success, and guaranteeing you at all times all the aid we can give, I remain,

Fraternally Yours,

2524 T. E. Zant,

Secretary S. F. Labor Council."

And I will read Plaintiffs' Exhibit 76: "San Francisco, Calif., May 13th, 1903. Mr. J. A. Moffitt, President, International Hatters' Union, 24 Lincoln Place, Orange Valley, N. J. Dear Sir and Brother: Some time ago we received a communication from you to enforce your boycott—D. E. Loewe Hat Co. against one Triest, 116 Sansome Street, this City. The delegate from the Hat Union asked that no action be taken on the matter until

2525 certain information should be had from your office regarding the Triest customers and exact information as to the orders placed with D. E. Loewe & Co. He informed us of having written three times and as yet has received no answer. We would be glad for information and some directions as to how to proceed in the matter, and assure you that we are glad and willing to do anything within our power to advance the interests of your organization. Hoping to hear from you in the matter, I remain,

Yours Fraternally,

2526 T. E. Zant,
Secretary, S. F. Labor Council."

And I would like to have it noted on the record that these exhibits are referred to in the depositions which I have been reading as "Plaintiffs' Exhibits 59 and 60", respectively. I would also like to have it noted that there was a notice to produce the original of these letters served on the defendants.

Mr. Merritt:

I will read further from the deposition of

2527 WILLIAM McCABE.

"Q. I will ask you whether you recall—"

Mr. Merritt:

This is question 23: "Q. I will ask you whether you recall more than one letter was introduced from that copy book that you brought with you at the time you testified in that case? A. I couldn't say.

Q. I will ask you whether or not you recall whether any of the copies of the letters bore the signature of T. E. Zant? A. I couldn't say.

2528 Q. For the purpose of refreshing your reccollection, I will show you page 502 of your testimony in that former action and ask you to examine the letter which appears on that page? A. There were some letters introduced in evidence there, but I cannot recall which ones they were."

"Q. I will ask you, Mr. McCabe, whether at the time you testified in that case—" This is question 35: "of D. E. Loewe & Co. vs. the California Federation of Labor, you brought with you any minutes of the San Francisco Labor Council? A. Yes, sir; copies.

Q. You recall bringing with you copies of the min- 2528
utes? A. Yes, sir.

Q. Can you state whether or not those were official copies? A. No, sir, they were not official.

Q. How did they come into your possession? A. Because I kept a copy of the minutes—typewritten minutes.

Q. What were the minutes made from; do you recall? A. I will not be sure about that, whether they were typewritten copies or copies taken out of the Labor Clarion.

Q. Can you state whether or not the minutes that 2530
you there produced were copies of the minutes that were reproduced in the Labor Clarion? A. To the best of my recollection they were.

Q. I will ask you to read your testimony as it appears on pages 477 and 478 and the bottom of page 479 and the top of page 480. Can you state after examining your testimony there, for the purpose of refreshing your recollection, whether that portion of your testimony that purports to be an extract from the minutes that you produced at that time is substantially the same as a certain portion of those minutes that were produced? A. To the 2531
best of my recollection."

Those minutes are offered in evidence.

Mr. Mulholland:

That is objected to.

Mr. Merritt:

He says they came from typewritten minutes, and he thinks they were from the Labor Clarion.

The Court:

You may proceed.

Mr. Mulholland:

Exception. 2532

Mr. Merritt:

Well, question 39. I offer these in evidence as "Plaintiffs' Exhibits 77 and 78." You will mark the minutes of the Council for May 22nd, 1903, as "Exhibit 77."

(So marked.)

And the minutes of the Council for July 3rd, 1903, as "Exhibit 78."

(So marked.)

533 "San Francisco Labor Council. Synopsis of minutes July 3rd, 1903. The meeting was called to order at 8:15. President Beham in the chair. Minutes of previous meeting aproved." From the minutes of the same meeting under the head: "Speacial orders," the following: "The floor was given to Mr. B. P. Kelly."

Mr. Davenport:

"D."

Mr. Merritt:

It is "B" here. "Organizer and special representative of the Hatters' National, who made an appeal for the label,
534 and urged the co-operation of the Council in boycotting Triest & Co., jobbers, for handling unfair hats from the Loewe Hat Company."

"Also the following from the minutes of the same meeting under the sub-head:

"Executive Committee"—"Representative of Hatters' National Union, urging the pushing of boycott against Triest & Co., jobbers of hats, who are handling Loewe's unfair hats. Recommend declaration of intention to boycott. Motion made and carried to declare boycott against Triest & Co., 116 Sansome Street, carried. Council ad-
535 journed at 11:30 P. M. Respectfully submitted, T. E. Zant, Secretary."

"On the minute book of records made on July 17th. 1903, as follows:

"San Francisco Labor Council. Synopsis of minutes July 17th, 1903. Meeting called to order at 8:45, president Benham in the Chair. Minutes of previous meeting adopted."

Under the heading of:

"Special Orders of Business," the following:

536 "Ordered that list of boycotts in effect be published in Labor Clarion."

"Also the following from minutes of May 8th, 1903":

"San Francisco Labor Council. Synopsis of minutes May th, 1903. Meeting called to order at 8:15, President Beham in the Chair. Minutes of previous meeting approved. Under the heading 'communications' from the minutes of the same meeting the following is offered. Communication. From Hatters' Union stating their inability to get information they had been seeking, and requests Secretary of Council to write their General Presi-

dent regarding Triest matter. Council adjourned 12:10, 2537
Respectfully submitted, T. E. Zant, Secretary."

I was reading in that instance from "Exhibit 78." I may have said "Exhibit 77."

I now read from "Exhibit 77."

"Minutes of San Francisco Labor Council. A synopsis of the minutes of the San Francisco Labor Council of May 22nd, 1903. Meeting called to order at 8:20 P. M. President Benham in the Chair. Minutes of previous meeting approved. At 9:35 P. M. Thomas I. Kidd, Fifth Vice-President of the American Federation of Labor was introduced—

2538

Mr. Merritt:

"And given the floor, making very interesting and instructive talk. Under the heading 'communications' the following. 'Communications,' from Samuel Gompers enclosing check for $45.00.

"From minutes of June 12th, 1903, San Francisco Labor Council. Synopsis of minutes, June 12th, 1903, under heading 'communications' San Jose from Stabiemen's Union, San Jose, sending copy of Frank Morrison's letter citing laws of American Federation of Labor, that all local unions directly affiliated and engaged in the same 2539
craft must accept clearance cards from one local to another."

"Question 42. Do you remember at the time when you produced the letter press book in the previous examination whether or not copies were made of those letters to John Moffitt which were contained in the letter book? A. Not to my knowledge.

Q. You do not recall having any copies made before the book was produced at the examination? A. No, sir."

Will you read your question on cross?

Mr. Beach:

2540

"What date was it, Mr. McCabe, that you testified in the previous suit? A. Some time in March, 1906."

Mr. Davenport:

Now on that point I want to read from the Federationist for September, 1903, on page 771, under the heading "Organizers of A. F. of L." and under the heading "General Organizers" and "Organizers for the Trade."

Mr. Mulholland:

To which we object and save our exception.

2541 Mr. Davenport:

Under the heading of "Connecticut"—"Danbury" "James P. Maher, 46 Town Hill Avenue," and on page 73, under the same heading: "New Jersey, Orange, Felix J. O'Haire, care John Moffitt, 24 Lincoln Place; Orange; D. P. Kelly, care John Moffitt, 24 Lincoln Place; James Byrne, care John Moffitt, 24 Lincoln Place; William Hennelly, care John Moffitt, 24 Lincoln Place."

Mr. Merritt:

Now I will read the deposition of

2542

J. H. CROTHERS,

taken in San Francisco.

"Mr. Merritt:

State your name, age, residence and occupation? A. My name is John H. Crothers, age 33; residence San Francisco; occupation business manager of the Bulletin.

Q. Is the Bulletin a San Francisco paper? A. Yes, sir.

Q. How long have you been connected with it? A. Twelve years.

2543 Q. Always in the capacity of Business Manager? A. No, sir; I have been in the capacity of business manager for the past five years.

Q. Your subpoena asked you to produce certain copies of the Bulletin, have you brought them? A. No, sir; the files of the Bulletin of the dates mentioned in the subpoena were destroyed in the fire of 1906.

Q. That is the reason you have not brought them? A. Yes, sir.

Q. You have no copies prior to 1905? A. Yes, sir; we have several copies prior to that, but none of the dates 2544 mentioned in the subpoena.

Q. Have you not the copy of July 2nd, 1903? A. No, sir.

Q. Nor of July 4th, 1903? A. No, sir.

Q. I will show you a sheet purporting to be taken from the Bulletin issue for July 2nd, 1903, and ask you whether or not that is a page taken from the copy of the Bulletin for that date? A. Yes, sir; that is a copy of the Bulletin for that date."

It was marked in the deposition as "Exhibit 27" and I will now offer it in evidence in this case as "Plaintiff's Exhibit 79."

Mr. Mulholland:

To which defendants object.

The Court:

It may be received.

Mr. Mulholland:

Exception.

(Marked "Plaintiff's Exhibit 79.")

"National Hatters' visit San Francisco. William C. Hennelly, National Advertising Agent and Representative of the United Hatters of North America," and that (indicating) I assume is a picture of the gentleman. "are here in the interest of their organization and will remain for several weeks.

"William C. Hennelly, National Advertising Agent and representative of the United Hatters of North America and Daniel P. Kelly, of the same organization, are visiting San Francisco. They are here in the interest of their National Organization. They will probably be on the Coast for several weeks. One thing which these gentlemen are in San Francisco for is to discourage the sale of hats manufactured by D. E. Loewe & Co., Danbury, Conn. Many of these hats are sold on this market and throughout the Coast and until the House becomes fair all Union Men and friends of organized labor are asking not to purchase any of the products of this firm. An effort will be made on the local jobbing firms, and it is hoped by these gentlemen that sufficient pressure will be brought to unionize the house. John B. Stetson's goods are also unfair, and the same course will be pursued with this firm. Mr. Hennelly has been traveling for the National Organization for six years, but this is his first visit to this city. Mr. Kelly is not a stranger to San Francisco, having been here several times. The gentlemen will probably be at the meeting of the Labor Council tomorrow night.

"Q. Referring to the columns of that sheet headed 'National Hatters Visit to San Francisco' will you state in what way your paper gathered this information? A. I cannot give positive information on that. I can only say it was, I presume, gathered in the regular course of news gathering by our reporters.

2549 "Mr. Frost:

That would be your best recollection as to that, Mr. Crothers?

"A. Yes, sir.

"Mr. Merritt:

I also show you a sheet which purports to be taken from an issue of the Bulletin for July 4th, 1903, and ask you to state whether or not that is taken from a copy of the Bulletin issued in the regular course of business for that date? A. Yes, sir.

2550 "I will offer this in evidence and ask to have it marked 'Plaintiff's Exhibit 28.'"

That Plaintiff's Exhibit 28 in this deposition has already been offered in this case on this second trial, and is "Plaintiff's Exhibit 65" and it was identified as being seen by the deponent Martin Triest.

"Q. Referring to the paragraph in this 'Plaintiff's Exhibit 28', headed 'National Hatters' Label' will you state how that information was acquired? A. No, sir; I cannot give you that information, more than to say that it was probably secured by our Labor Editor. We usually have a reporter who is called our Labor Editor who
2551 gathers all the information from the Unions.

Q. This was acquired in the ordinary course of business? A. In the ordinary course of events he would gather that news.

Any cross?

Mr. Beach:

No.

Mr. Merritt:

Then I will read the deposition of

2552 MICHAEL SAVANNAH,

172, Deposition of Michael Savannah, also taken at San Francisco:

"Mr. Merritt:

State your name, age, residence and occupation? A. My name is Michael Savannah, age 40; residence San Francisco, occupation merchant.

Q. Are you doing business in your own name? A. I am manager of a concern now; yes.

Q. Were you ever connected with the concern of 2553
Triest & Co.? A. I was.

Q. In what capacity? A. Salesman.

Q. During what time? A. About 1892 to 1905; or 1904.

Q. What territory did you cover during the years 1902 to 1904? A. San Francisco, Oakland, and the vicinity, and Humbolt County.

Q. How many trips did you usually make in the course of the year when you were with Triest & Co.? A. The long trip I made was every three months; four times a year to Humbolt County and go over to Oakland and 2554
around every week.

Q. Did you ever meet a gentleman by the name of Hennelly? A. Yes, sir.

Q. State when and under what circumstances? A. I met him to speak to him coming back from Humbolt County from Eureka to San Francisco on the steamer.

Q. Do you recall his initials? A. W. C. Hennelly, do you mean.

Q. Are those the initials of the man you are testifying about? A. I believe so. He was representing the United Hatters of North America at that time. I pre- 2555
sume those were his initials.

Q. He stated that he was representing the United Hatters of North America? A. Yes, sir.

Q. And you met him coming back from Eureka, you say? A. Yes, sir.

Q. Where did you meet him? A. On the steamer, either the Corona or Pomona. I don't remember which.

Q. In what year was that? A. I think it was in 1904, or thereabouts. I was on the summer trip in July.

Q. Did you have any conversation with this man? A. I did. 2556

Q. Will you give us the conversation as nearly as you can recollect?"

Mr. Mulholland:

This was July, 1904, about, or subsequent to the date of this action.

Mr. Merritt:

Your Honor, this was the traveling agent who had been active in California. We shall show that he went to these other towns either at the time or immediately

2557 following, and his statements here in his conversation with Mr. Savannah are decidedly retroactive. They refer as much to what he has not done as to what he has been doing. I make no claim whatsoever that any evidence of any wrongful acts done subsequent to the suit can be introduced to augment our damages, but we do claim the acts occurring within a reasonable time after the suit tend to prove a conspiracy in existence at the time the suit was commenced; and it is for that purpose offered.

The Court:

For that purpose it may be received.

2558 Mr. Mulholland:

Exception.

"Q. Will you give the conversation as near as you can recollect it? A. I took the liberty of introducing myself to him. He did not know me. He was up there to counteract the purpose I went up for, and we spoke on the steamer.

"Q. What do you mean by 'he was up there to counteract the purpose that you went up for'? A. I was up there to sell goods and he was up there to try to discourage the merchants from buying.

2559 Q. To continue with this conversation, can you give us what took place? A. Is there any particular part of it that you want? I don't recollect. In a general way, I know after we got to talking.

Q. Did he state what the purpose of his visit was? A. In our conversation I mentioned what his visit was, which he denied; I told him he was there for the purpose of boycotting Triest & Co. and Loewe's hats. He said 'only partly; he was up there to encourage the use of the union label in hats.

2560 Q. What else was said then? A. In the course of the conversation he remarked about the boycott, and he remarked that they were not to blame; that the union hatters were the ones who insisted on them fighting Loewe.

Q. You say he remarked on the boycott; to what boycott did he refer? A. The boycott on D. E. Loewe & Co., and also Triest & Co. One applied to the other.

Q. He stated that the unions were not to blame? A. He stated that the United Hatters of North America were compelled to take the initiative to boycott Loewe and he was out there for that purpose.

Q. I show you Plaintiff's Exhibit 27, and ask you if 2561
that is a picture of Mr. Hennelly, concerning whom you have been testifying? A. I believe it is."

This refers to one of the issues of the San Francisco Bulletin which has been introduced in evidence here.

"Q. The name under that picture is William C. Hennelly. Can you state whether or not that is the name of the gentleman? A. W. C. Hennelly, yes, I recollect that.

Q. Did you ever meet a gentleman by the name of Kelly? A. Yes, sir. Mr. D. P. Kelly. I met several gentlemen by the name of Kelly. 2562

Q. Where did you meet him? A. The Kelly connected with the United Hatters of North America I met the first time in the store of the Columbia Hat Works, run by a gentleman of the name of McCormick.

Q. How do you know he was connected with the Hatters' Organization? A. I was introduced to him by Mr. McCormick at the time.

Q. And Mr. McCormick introduced him as a representative of the Hatters' Organization? A. Yes, sir.

Q. Do you remember the conversation that took place at that time? A. Mr. McCormick remarked some- 2563
thing about my having such a very good position—such a cinch. I remarked that I may have a cinch but I thought Mr. Kelly had a better cinch than I.

Q. What did you mean by that? A. Getting quite a large salary and doing nothing but calling on the trade to boycott different merchants.

Q. Is that what you stated at the time? A. Yes, sir.

Q. In whose presence did you state that? A. Mr. McCormick was there. I think there were one or two other people there, but I do not remember. 2564

Q. Was Mr. Kelly there? A. Mr. Kelly was there. They all laughed at the remark. It was kind of a josh more than anything else.

Q. Did Mr. Kelly make any reply? A. He kind of smiled; that is about all.

Q. Did he make any statement? A. Not that I recollect. He may have said something, and very likely he did.

2565 Q. Can you state whether or not he denied it? A. No, sir; he did not. I am quite sure of that.

Q. Can you state whether or not you met Mr. Kelly subsequent to that time? A. Yes, sir; a short time after that I met him in Oakland.

Q. Whereabouts in Oakland? A. At the store of one W. Smith.

Q. What is Mr. Smith's business? A. He had a large clothing and general store.

Q. Did he carry hats? A. He carried hats.

2566 Q. Did you have any conversation with Mr. Kelly at that time? A. Yes, sir; we spoke about the boycott, naturally.

Q. Who was present? A. Mr. Smith was there, and his head man Mr. Alkus,—Harry Alkus.

Q. Well, what was said on that occasion? A. Well, Mr. Kelly at the time said that on account of Triest & Co., and Loewe's actions that a number of hatters were out of work walking the streets for twelve or fourteen months since the boycott was instituted. I told him that was ridiculous that they should walk the streets doing nothing when there was such an immense demand for labor at that

2567 time.

Q. Was any mention made of Triest & Co.? A. Yes, sir.

Q. What was that? A. I remarked at the time that they would have a very hard time in beating Triest & Co.; but he said he did not think so; they had a hundred thousand dollars to do it, and did not care whether it took one or two or three years; that they had already beaten the firm of Berg & Co. and H. H. Roelofs, and they did not think they would have such a hard time in beating us—or Triest & Co., when I say 'us.'

2568 Q. Do you recall anything further that was said? A. They had agents in different parts of the country prosecuting this boycott.

Q. What boycott was he talking about? A. The boycott of D. E. Loewe & Co.

Q. What was the purpose of your visit to the store of W. Smith? A. My usual weekly visit there to fill their wants in regard to hats.

Q. Did you sell them any hats? A. He was one of our very best customers at the time—a regular customer. 2569

Q. Did you sell him any hats at that visit? A. At that time, no. Mr. Smith refused to buy any.

Q. Did he give any reasons for not buying? A. Yes, sir.

Q. What were those reasons? A. He was intimidated by the labor representative—"

Mr. Mulholland:

That is objected to, if the court please.

The Court: 2570

Who is the man who is testifying?

Mr. Merritt:

The man who is testifying is Michael Savannah, who is the salesman of our jobbing customer, Triest & Co., and he is going around to these customers and soliciting trade for Triest & Co. He calls upon one of his customers, Mr. W. Smith, of Oakland, who he says was a regular customer, and he asks Smith to buy hats, and Smith refuses; and I asked him if Smith gave any reasons for his refusal. He said "yes" and then I asked him "what were those reasons." Now, of course, I don't claim that Smith's 2571
statement to him is proof that Smith was boycotted, or anything of that kind. I only claim Mr. Smith's statement to him as proof of Smith's state of mind, and explaining the reasons why he discontinues the patronage of Triest & Co., because they are reasons in the ordinary course of business.

The Court:

I have looked into the subject as to proof of the sales to customers of the plaintiffs, but the sales by plaintiffs' customers to their customers is a step beyond anything that I have looked into. Now, if you feel safe to put in 2572
that class of testimony, subject to their objection, without the court looking into it any further, why you can take your risk.

Mr. Mulholland:

I understand the court says they may have it, subject to our exception.

The Court:

Subject to your exception.

2573 Mr. Mulholland:

Save the exception.

Mr. Merritt:

"What were those reasons? A. He was intimidated by the labor representative on account of the boycott. He even went so far as to state that he would gladly buy if he were allowed to.

Q. Did you ever during the course of your business trips—" "during the years 1903 and 1904 get turned down by other customers in this way"?

Mr. Mulholland:

2574 Same objection, same reason.

Mr. Mulholland:

Exception.

Mr. Merritt:

"Yes, sir.

Q. Did you ever call on Mr. A. Jonas, of Oakland? A. I did; yes, sir.

Q. And what statement of this character, if any, did Mr. Jonas make to you?"

Mr. Mulholland:

2575 Same objection; same reasons. Exception.

The Court:

I think it better be understood now that all that evidence you are offering of the customer's customers' reasons is under the objection and exception of the defendant.

Mr. Mulholland:

That is satisfactory.

Mr. Merritt:

And that all of this evidence which we are offering is offered with the single purpose of showing the state of

2576 that customer's mind and explaining his act of refusing to do business with us.

Mr. Mulholland:

With Triest & Co.

Mr. Merritt:

Or refusing to do business with Triest & Co.

Mr. Beach:

Your Honor, there is another phase of it,—that the date is not fixed. It seems to me that when you come to limit the testimony in that way it becomes material that the transaction should not occur prior to the institution of

the suit, and if any of this is subsequent to the institution of the suit, the objection is also for that reason. 2577

Mr. Merritt:

I might state for the plaintiff at this point, that any evidence subsequent to the date of the suit which shows continuing conspiracy and shows continuing damage, is not for the purpose of proving any damage which might result from acts done by the defendant subsequent to the date of suit.

The Court:

No, it must all be for acts that have been committed before. 2578

Mr. Davenport:

Yes. Your Honor.

The Court:

You may show a continuous damage from these acts which preceded the bringing of the suit.

Mr. Davenport:

That is our understanding and what we desire to do and limit it to.

Mr. Merritt:

And leave it to the jury to say what part of our damages arose from the act of the defendant prior to the date of suit. 2579

The Court:

Yes.

Mr. Beach.

We object to that on the ground that if the acts continue the damage must be recovered in a subsequent action, and the whole damages subsequent to the date of the commencement of that suit.

Mr. Mulholland:

Note our exceptions.

Mr. Merritt: 2580

"Q. And what statements of this character if any, did Mr. Jonas make to you? A. Mr. Jonas told me that he was afraid to buy on account of the boycott, and also stated that he had one of his employees there who is a prominent member of the Oakland Labor Council whom he was afraid to antagonize.

The Court:

Now, Mr. Foreman, and gentlemen of the Jury, this evidence that he is reading now is no evidence of the fact

2581 that the deponent states, if you find there was a fact elicited at that time. It is offered to show the effect of the boycott upon the customer's mind. Anything that he said as to what the facts were is hearsay; but as showing what his mental condition was, it is received for that purpose and that only.

Mr. Merritt:

And offered for that purpose.

Recess for fifteen minutes.

The Court:

Proceed.

2582 Mr. Merritt:

"And what statements of this character, if any, did Mr. Jonas make to you"? I read that question and answer. "Can you state whether you were turned down by Mr. Jonas more than once in this connection? A. Yes, sir, a number of times.

Q. And always for the same reasons? A. Yes, sir.

Q. Did you ever call upon Mr. C. J. Heeseman? A. Yes, sir.

Q. And with the same results? A. Yes, sir.

Q. What, as near as you can recollect, did Mr. Hees-

2583 man state to you in this connection? A. Mr. Heeseman told me he simply had to stop. He would like to do business with us, but he was compelled to stop on account of the action of the labor union.

Q. Did he make any statements concerning any other customers of this kind? A. Nearly all the Oakland merchants stopped for that reason alone. I can mention the names of the different ones if you wish.

Q. I should like to have you mention the names of those who gave these reasons to you personally? A. They all did, because I interviewed them regularly for

2584 months afterwards and tried to prevail on them to change their minds, or in some way to do business with us; but that is always the reason they had. They even tried it at different times and one or two of the merchants were called up before—"

Mr. Davenport:

Well,

Mr. Merritt:

I won't read that. "Q. Do you mean—" I will withdraw that: "I wish you would give me the names of these

Oakland customers concerning whom you can testify as you have done? A. J. T. Moran; E. M. Berstein; the Lion Clothing Company; Brown & Mangun; M. J. Keller. Those are the principal ones. 2585

Q. And the testimony you have given applies to each one of these customers? A. Yes, sir.

Q. Did you ever call on Mr. James Allen? A. Yes, sir; James B. Allen.

Q. What was his business? A. He had a hat store and a renovating establishment.

Q. Can you state whether or not he did business with Triest & Co.? A. He did. He bought hats of us and did renovating and altering and remodeling for us at different times. 2586

Q. Did Mr. Allen ever refuse to buy hats from Triest & Co.? A. Not that I recollect." I do not claim the rest. and I will omit question 72 and question 73, and I will read 74.

"Q. I show you a written document on the paper of the Columbia Hat Works, which purports to be a copy of a circular signed by R. I. Wisler, and dated October 12, 1903, and ask you whether or not you have ever seen that before? A. It is in my hand writing. That is sufficient. It is in my handwriting. 2587

Q. Do you recall how you came to write that? A. I copied it from original which Mr. McCormick had at the time.

Q. What Mr. McCormick was this? A. The proprietor of the Columbia Hat Works.

Q. Do you know where the original is? A. I do not.

CROSS EXAMINATION.

Mr. Beach: 2588

"Q. How about these other customers of whom you have testified that they claim to have been prevented from buying from your concern because of the action of the labor representatives. Are those concerns all of them in business now? A. I believe they are.

Q. And are all of them people whose language you have undertaken to state alive and still residing at the places that they formerly did business? A. To the best of my knowledge."

2589 Mr. Merritt:

Now I will read the testimony of

BENJAMIN ROSENTHAL.

Mr. Merritt:

"State your name, age, residence and occupation? A. My name is Ben. Rosenthal, age 37; resident San Francisco; occupation traveling salesman.

Q. You are a traveling salesman for the house of Triest & Co.? A. Triest & Co.; yes, sir.

2590 Q. And you have been so for how long? A. For about fourteen years.

Q. What territory do you usually cover? A. Well, I cover now Washington and Oregon. My brother and myself have the whole territory now.

Q. In the year 1903, what territory did you cover? A. Oregon and Washington with the exception of Portland. We had a man living there in Portland then.

Q. What was his name? A. J. W. Curran.

Q. Will you state whether or not, in the regular course of your trip as salesman for Triest & Co. you were

2591 in Pendleton, Oregon, in August 1903? A. I was.

Q. Did you call on any customers there? A. I called on my regular trade there.

Q. Did you call on the concern of H. H. Wessel? A. I did.

Q. Will you state whether or not Triest & Co. were accustomed to sell hats to that concern? A. Yes, sir; they were.

Q. Can you state in a general way the amount of their purchases prior to that time? A. Well, they would buy from a hundred and fifty dollars to three hundred

2592 dollars a trip. It would amount to about between five hundred dollars and six hundred dollars year; never less than that.

Q. Can you state whether or not it might have been more? A. It might have been more, but I don't say exactly the figures.

Q. Did you sell this concern any goods on this trip in August, 1903? A. I did not; no, sir.

Q. What if any reasons did they give you for not purchasing?

Mr. Mulholland:

We would like to have our exception as saved to the last deposition to go also to all conversation between this agent of Mr. Triest and the customers of Mr. Triest. 2593

The Court:

It may be so understood.

Mr. Merritt:

And our offer of proof is limited to the purpose already stated.

"Q. What, if any reason, did they give you for not purchasing? A. He said: 'we don't want to deal while there is a boycott on. They want union goods and this man come around and told us to handle union goods.'" 2594

Mr. Merritt:

I will omit the latter part of that answer.

"Q. And they gave that reason for refusing to buy? A. Yes, sir. Answer." I am omitting the question and reading it in a limited way.

Mr. Mulholland:

We will object to the reading of an answer without reading the question. Counsel proposes to read the answer and omit the question.

Mr. Merritt: 2595

Now wait just a moment. In view of the objection, I will read the whole matter, Your Honor.

Mr. Beach:

Now we object to both question and answer.

Mr. Merritt:

I propose to read this answer, which I understand is without objection: "A. Well, he said they were afraid of being boycotted." Counsel has objected to my reading that part, so I read the question and answer.

Mr. Mulholland:

Objection and exception. 2596

Mr. Merritt:

"Q. Did they state why the visit of Mr. Hennelly should prevent their patronizing your house? A. Well, he said they were afraid of being boycotted, and they were getting circulars." I omit question 17 and the answer.

"Q. Did you ever sell that house any goods since?"

597 Mr. Beach:

Just a moment. I claim that last sentence: "They didn't want to handle the goods or buy anything while the boycott was on." Because I apprehend, if your Honor says that the jury are to determine how much of this trade was lost by reason of what occurred before, and what occurred after, we would have to in some way get to the knowledge of the jury what occurred after.

Mr. Mulholland:

Read it.

Mr. Merritt:

598 Without objection?

Mr. Mulholland:

It comes under our general objection.

Mr. Merritt:

Well, I will read it. Mr. Beach wanted read "He said they didn't want to handle the goods or buy anything while the boycott was on.

"Q. Did you ever sell that house any goods since? A. Yes, I got them back since.

Q. About what time did you get them back? A. About a year afterwards, I guess.

599 Q. Did you visit them in the meanwhile again? A. Yes, sir; I visited them two or three times after that.

Q. With what result? A. With the same result. They would not buy anything.

Q. Did they always give the same reason? A. Yes; he says: "We don't want to buy while this thing is on."

Mr. Beach:

No, I want the whole answer.

Mr. Merritt:

Very well; glad to read the whole answer "Yes, he says: 'We don't want to buy while we are getting these 600 circulars and while this thing is on.'

Q. In the summer or fall of that same year, and in the course of the same trip, did you go to Astoria? A. I did.

Q. While in Astoria what houses did you call on? A. I called on H. Crane, Herman Wise, N. Schussel and A. Danziger & Co.

Q. Will you state who you saw at the house of A. Danziger & Co. in Tacoma? A. I seen the buyer.

Q. Who was the buyer? A. Mr. Sellers—Charles Sellers. 2601

Q. Will you state to what extent if any Triest & Co. had dealt with that house in the past? A. Oh, we didn't sell them much. Probably a couple of hundred dollars a year, off and on, you know.

Q. What do you mean by off and on? A. Well, he passed me up one trip and then I would sell him the next trip. He didn't buy twice a year or three times a year as the case might be that I went down there. I could not figure on his bill at all, you know; but he always bought a certain amount of me—what he needed to fill in with 2602 and things like that.

Q. Did he buy any hats at this time? A. No, he did not.

Q. Did he give any reasons for not buying any? A. He gave the reason that Mr. Hennelly was there.

Q. Just answer that question yes or no. Did he give any reasons? A. Yes, he did.

Q. What were the reasons? This Mr. Hennelly got down on the noon train and told him he would be boycotted if he bought; that Triest & Co. were boycotted and that he would have trouble from the unions if he bought 2603 anything from us.

Q. Those are the reasons he gave for not buying? A. He would not keep his appointment with me. He was going to buy from me, but this man Hennelly called on him.

Q. You didn't have an opportunity even to show him the lines? A. No, he had an engagement with me, a date with me, but he would not keep it.

Q. At what time? A. At one o'clock.

Q. What reason did he give for not keeping the engagement, if any? A. That this Mr. Hennelly called 2604 on him and told him not to buy; that Triest & Co. were boycotted and that he would be boycotted if he bought of us, and he told me he didn't want to have any troubles with the unions and he wouldn't buy of me while this thing was on.

Q. What was the first house you called on in Astoria? A. Herman Wise.

Q. Did you sell him any goods? A. I sold him, yes.

2605 Q. How much did you sell him? A. I sold him between $600 and $700.

Q. All on that visit? A. That morning, yes, sir.

Q. Did you see Mr. Wise after that? A. Yes, sir.

Q. Did you have any further conversation with him concerning purchases of hats at the time you saw him later in the day? A. He told me to cancel the order; yes, sir.

Q. What was that conversation? A. He told me to cancel the order; that this Mr. Hennelly was here and he would be boycotted if he handled our stuff; that there 2606 was a boycott against us; and Hennelly told him and he would get into trouble if he bought any stuff of us; and he told me to cancel the order. I told him I sent the order in already. He said 'well write to them to cancel it,' and I said 'all right, you write to them too.'"

"Did you make any visits to Mr. Wise after that for the purpose of selling hats? A. Yes, sir.

Q. With what result? A. Well, I didn't sell him for quite a while.

Q. What reasons did he give? A. He didn't want to buy of us while this boycott was against us. He didn't 2607 want to have any trouble with the unions.

Q. When did you sell Mr. Wise the next bill; approximately what date? A. I couldn't tell you exactly; may be a year and a half or two years afterwards; or may be longer than that.

About this same time and on this same trip did you go to Tacoma? A. Yes, sir.

Q. Who did you see there? A. Well, I seen McCormick.

Q. Do you know the name of that house? A. McCormick Brothers.

2608 Q. Whom did you see there at that house? A. I seen one of the McCormick Brothers; the one I was always selling.

Q. The man you had dealt with before that time? A. Yes, sir, the buyer; that is the one that bought the hats.

Q. Can you give us his first name? A. I am not sure of his first name.

Q. Can you describe him? A. Well, he was a man about forty-three of forty-five years old; a very ruddy

complexion; a sandy mustache, almost red, long and flowing. I am not sure whether his name was Ed or not. I was never very familiar with him. I could not use his first name like I could with some customers.

Q. That is your description of him according to your best recollection? A. Yes, sir; he was the buyer.

Q. Did you sell him any goods? A. No, I didn't sell him any on that trip.

Q. What reasons, if any, did he give? A. He said he was visited by members of the union, and had been getting circulars, and he didn't want to get himself into any with the unions there; that it was a strong union town, and he didn't want to take any chances.

Q. Did he state who he was visited by? A. No, he didn't state. He said it was by some local men.

Q. Do you know, in a general way, how much business you had done with this house of McCormick Brothers in the past? A. Oh, we sold them about $350 a year. His last bills was about $200 alone.

Q. Were they regular buyers? A. Yes, sir, they bought something every trip.

Q. Could you state some figure and testify that you were accustomed to do a business of at least that amount with them? A. You mean per year.

Q. Yes, per year? A. It was at least $300 any way.

Q. Have you in mind any other customers who refused to do business with you on that trip? A. I can't just remember. There was quite a number. I sold a bill near Portland and I talked the fellow into taking the bill.

Q. What was the name of that customer? A. Aaron Fox.

Q. Have you in mind any others? A. There is a place called, I think, the Lion Clothing Co., in Tacoma. I had been selling them and they refused to buy on that trip.

Q. Did they give any reasons why they would not buy? A. Yes, he says he was afraid of the boycott."

Mr. Mulholland:

I will read the cross examination of this witness:

22613 "CROSS EXAMINATION

By Mr. Beach:

Q. Is the firm of Schaffer Brothers still in business in Tacoma? A. I think they are.

Q. Who are the members of the firm? A. I don't know who the members of the firm are.

Q. You don't know what their names are? A. No. The man who bought the goods is named Starrett, he was the buyer.

22614 Q. Do you know where Mr. Starrett is now? A. He is in Tacoma, I guess.

Q. Is that the man with whom you had the conversation you refer to in your direct testimony? A. Yes, sir.

Q. Is the Danziger concern still in business in Astoria? A. Yes, sir.

Q. Do you know whether the buyer of Danziger's is still in their employ? A. He is; yes, sir.

Q. At Astoria? A. At Astoria; yes, sir.

Q. He is the same man with whom you had the conversation you refer to in your direct testimony? A. Yes, sir.

22615

Q. Is Mr. Wessel still in business in Tacoma? A. He is in business in Pendleton.

Q. He is in Pendleton? A. Yes, sir.

Q. And a customer of yours at the present time? A. Yes, sir; he buys of us now.

Mr. Davenport:

I want now to read into the record at this point various reports made by John Phillips, Secretary of the hatters to and for these defendants.

Mr. Mulholland:

22616 That statement is objected to that "these reports were made to and for these defendants."

Mr. Mulholland:

We understand that these are being read from the American Federationist, subject to the general exception that we have saved.

The Court:

Yes, last week.

Mr. Davenport: 2617

And in the number for April, 1902, under the same heading: "What our organizers are doing from the Atlantic to the Pacific" and the same statement in regard to "reports from National and International Secretaries," page 187, under the head "Hatters: John Phillips. Everything is running very smoothly in the trade. There are no complaints to make. We have 22 locals. The strike at Philadelphia for union conditions has been on about eight months and has materially reduced the output of the factory. We still hope to win." And from the June Federationist, 1902, on page 311, under the same heading "What our Organizers are doing from the Atlantic to the Pacific," and the statement in connection with reports of the "National and International Secretaries:" "Hatters, John Phillips: This is usually the dull season, but some localities are very busy, and it has been a very satisfactory season." 2618

And from the November, 1902, Federationist—this was the November following the July when these transactions broke out. And in the column on page 820, under the same heading "Hatters: John Phillips. Trade is very good. We won a strike for increase in wages in Philadelphia, after being out fourteen months. About five hundred hatters were affected. Our total increase in membership during the month was 614." 2619

And in the December number, 1902, on page 741, under the same heading. "Hatters, John Phillips. Trade good, especially in the soft hat line. Our men are steadily employed and receive good wages. The union label is booming, and for this we are indebted to the organized workers of all the land, and we thank them sincerely for their persistency in demanding union labeled hats. We have no strike or lockout now in our trade." And from the March 1903 American Federationist, under the same heading : 2620

"What our Organizers are doing from the Atlantic to the Pacific" on page 184: "From National and International Officers: Hatters. John Phillips. Trade has been very good. Plenty of work at good wages. We continually send out literature calling attention to our union label and get good results from this work." And from the American Federationist for the month of May, 1903, on

2621 page 386, under the heading "Hatters. John Phillips. Trade good. Wages and conditions satisfactory. We have one strike on for increases in wages and better conditions; but on the whole things are in good shape in our trade."

And from the American Federationist for June, 1903, on page 480, under the same heading, first column:

"Hatters. John Phillips. Trade has been a little dull in some localities, but on the whole we are doing well and have prospects for a good season."

2622 And from the July, 1903, Federationist on page 584, under the same heading "Hatters: John Phillips. Trade rather dull at present, but it is expected at this time of the year. Our membership is growing."

Under the same heading, first column: "Hatters: John Phillips; trade a little quiet just at present. A good business is expected during this coming season. Our total membership now is about eight thousand and growing steadily. The strike for union conditions is still on at Danbury, Conn."

I think that is the last one, brothers.

Mr. Merritt:

2623 I now read from the deposition of

FRANK TRIEST:

"Q. State your name, age, residence and occupation? A. My name is Frank Triest; age thirty, residence 2412 Buchanan Street, occupation traveling salesman and secretary of Triest & Co.

Q. You are a salesman for Triest & Co.? A. I am.

2624 Q. How long have you been acting in that capacity? A. Twelve years.

Q. What territory do you cover in the ordinary course of your duties? A. Stockton and Sacramento Valley.

Q. What cities? A. Pleasanton, Livermore, Stockton, Sacramento; as far North as the State Line—Hornbrook.

Q. That has been your territory for at least ten years past? A. Ten years past?

Q. I will ask you whether in the course of your trip 2625
to sell hats you have ever sold to the I. X. L. in Stockton? A. I have.

Q. Are you familiar, in a general way, with what character of merchandise that house is accustomed to purchase from you? A. Yes, sir.

Q. Can you tell me whether any of it was in goods which you purchased from manufacturers at $13.50 a dozen? A. Yes, sir.

Q. What proportion was of goods of that character? A. About seventy-five per cent.

Q. Were dealing with this house in the year 1903? 2626
A. I was.

Q. And can you state whether that figure of seventy-five per cent. applies to that year? A. Yes, sir, it does.

Q. State, if you can, from what manufacturer the house of Triest & Co. purchased these hats of $13.50 which you sold to the I. X. L.? A. Prinicpally D. E. Loewe & Co.

Q. Can you testify what portion of the business that your house did with the I. X. L. prior to the time of the boycott on Triest & Co. was on goods of D. E. Loewe 2627
& Co.? A. Seventy-five per cent. was Loewe's merchandise.

Q. You are familiar with what I mean by the boycott? A. Yes, sir, I am.

Q. About what date do you refer to when I speak of the boycott? A. In 1903 and 1904.

Q. Do you recall any change in the business transactions with this house of I. X. L. at the time of the boycott? A. They stopped buying for a long time.

Q. Do you know about how long? A. Approximate- 2628
ly eleven months.

Q. I will ask you, if after the lapse of that eleven months they started to purchase again? A. They did.

Q. And will you tell me whether their purchases after the lapse of that eleven months were the same as they had been prior to the time of the boycott? A. The business was the same except that they demanded union made goods.

Q. Do you mean to testify that all of the goods that they purchased from you of the $18.00 and of the manu-

2629 facturer's price of $13.50 were union goods after that date? A. After that date union goods.

Q. Why did you sell them union goods after that date? A. They demanded them.

Q. You state that they stopped dealing with you for a period of eleven months at the time of the boycott; I will ask you whether you ever had any conversation with any of the representatives of this house in reference to the matter? A. I had a conversation with Alec. Briones and Carl Steinhardt.

2630 Q. I will ask you what was the cause of this conversation? A. Because of receiving many notices—"

Mr. Beach:

Well, this is subject to the same exception as before.

The Court:

Yes.

Mr. Merritt:

"Because of receiving many notices from the unions." I don't know what he means. "How did they happen to tell you about this? A. I was up there at the time trying to sell them merchandise.

2631 Q. Mr. Carl Steinhardt and Mr. Alexander Briones were connected, as I understand it, with this concern of I. X. L.? A. Yes, sir.

Q. Carl Steinhardt was the proprietor, was he not, at that time? A. At that time he was the manager.

Q. State, if you recollect, what reason, if any, they gave for refusing to deal with you at that time? A. On account of receiving notices from the unions.

Q. Was anything else said?"

No; I won't read that.

This is 35: "Did any conversation arise at this time as to why the receipt of these circulars should induce the

2632 I. X. L. to cease dealing with Triest & Co.? A. They were afraid of a boycott themselves.

Q. I wish you would tell me, in a general way, your practice in making trips for the purpose of selling hats. How many trips a year do you make to Sacramento and Stockton? A. Approximately five trips a year.

Q. In the course of the performance of your duties as a salesman did you ever sell any hats to H. L. Stich of Sacramento? A. Often.

Q. And did you sell them any hats prior to the time 2633
of the boycott? A. I did.

Q. Have you any recollection as to any purchase of hats by this house during the year 1903? A. I have.

Q. What was the amount of those purchases? A. Approximately $500.

Q. Have you any way to refresh your recollection as to the amount you sold them during that year? A. By my travelers' book.

Q. What is this travelers' book to which you refer? A. Where all orders are entered as being received from the travelers. 2634

Q. This book contains the original entries of all sales made by you to this concern of H. L. Stich for the period of time covered by it? A. My personal sales.

Q. And is a book kept in the ordinary course of business? A. Yes, sir.

Q. I will ask you to tell me, after an examination of that book, the amount of hats that you sold H. L. Stich during the year 1903? A. Four hundred and sixteen dollars and seventy-five cents.

Q. What was the date of the first one of those purchases? A. May 22nd, 1903. 2635

Q. You sold them that amount of goods between May 22nd and the 31st day of December, 1902? A. That was the amount on that date.

Q. Can you state whether or not that represents all the goods sold by the house of Triest & Co. to this concern during that year? A. No, sir; it does not.

Q. Why is that true? A. Because there were mail orders received all the time that were not entered in this book at all.

Q. Would purchases made from the store of Triest & Co. by some one visiting the store appear in that book? 2636
A. No one else visited Sacramento but myself.

Q. But in case Mr. Stich should come into the store of Triest & Co. here in San Francisco and buy so many dozen hats, would that appear on that book? A. No, sir, it would not.

Q. This $416 represents simply the purchases which you secured from them on the occasion of your trip? A. On my visit to Sacramento.

2637 Q. Do you recall whether any change took place in your business dealings with that concern at the time of the boycott? A. They stopped buying from us entirely.

Q. That is the change that took place? A. Yes, sir.

Q. In the course of your duties as salesman for Triest & Co. did you visit Albert Elkus in Sacramento? A. Often; yes.

Q. Are you familiar in a general way with the character of their purchases prior to the time of the boycott? A. I am.

2638 Q. Can you tell me what grade of goods they purchased? A. Principally $12 and $18.

Q. Could you testify what percentage were $18.00 goods? A. About seventy-five per cent.

Q. I will ask you whether there are any records of entries or books of any kind in existence today in which the exact proportion of the different grade of goods purchased by these various people could be ascertained? A. I have none whatsoever.

Q. And the house of Triest have none? A. They have all been destroyed.

2639 Q. I will ask you what proportion of these $18.00 goods were purchased from D. E. Loewe & Co.? A. The greater proportion of them.

Q. You were carrying practically nothing but the Loewe hats at $13.50 at that time? A. Practically nothing but the $13.50 Loewe.

Q. Then I will ask you to testify what proportion of the purchases made by Albert Elkus, prior to the time of the boycott were goods of D. E. Lowe & Co. of the price of $13.50—I mean by that the manufacturers' price? A. I should judge it would be sixty-five per cent.

2640 Q. Did you ever sell any goods to S. Dannenbaum & Co. in Vallejo? A. I have.

Q. Did you sell them prior to the date of the boycott? A. I did.

Q. Do you recall any change in your business transactions with them at the time of the boycott? A. On visiting them at the end of 1903 they would not buy from me on account of receiving notices and calls from the unions.

Q. You were visiting them for the purpose of sell- 2641
ing them hats? A. I was visiting them for the purpose of selling them hats.

Q. And will you state what reasons they gave for refusing to purchase? A. On account of receiving notice that Triest & Co. were boycotted; at the same time the union men of Vallejo calling on them and notifying them they should not purchase hats from Triest & Co. under a threat of being boycotted themselves.

Q. Have you attempted to sell them since then? A. Several times.

Q. Do you know with what success? A. For two 2642
years after I was not able to sell them anything at all. Since then I have not been making Vallejo.

Q. I will ask you to state whether in the course of your business as salesman you sold to the concern of C. P. Nathan at the time of the boycott? A. I sold C. P. Nathan quite often.

Q. Have you any recollection of the character of the goods purchased by them? A. Almost entirely $18.00 goods.

Q. Do you recall any change in the business trans- 2643
actions with this concern at the time of the boycott? A. Before the boycott they were not particular whether they were receiving union or non-union goods. Today I can sell them absolutely nothing but union made merchandise.

Q. I will ask you, Mr. Triest, to state whether you have in mind the names of any concerns who you were selling at the time of the boycott and whose business transactions with your concern changed at that time? A. Carl Kuhn of Reno, Nevada.

Q. What took place at the time of the boycott with them?" I won't claim that. I skip down to question 97. 2644

"Q. What reasons, if any, did he give for stopping? A. Receiving notices from the unions, and being called on by union men asking him to desist buying from Triest & Co., or threatening him with a boycott.

Q. I will ask you whether you have in mind any other concern who has given you similar information? A. Joe Capurro of Stockton.

Q. Anybody else? A. None that I can think of at present."

2645 Mr. Merritt:

I now read the deposition of

P. B. PREBLE,

on page 224:

"Mr. Merritt:

State your name, age, residence and occupation? A. My name is P. B. Preble, age 39. I reside in Oakland. My occupation is printer.

Q. Are you a union man? A. Yes, sir.

Q. What union? A. Typographical Union.

2646 Q. How long have you been connected with that? A. Well, I could not state exactly; I guess a matter of fifteen years.

Q. Are you an official? A. No, sir.

Q. Are you an official in any labor union? A. No, sir.

Q. Are you connected with the Alemeda County Federated Trades Council? A. No, sir.

Q. Have you ever been connected with it? A. I have.

2647 Q. When and in what capacity? A. I was for three years the secretary, up to about May—I think the year was 1903 or 1904; I don't know which. It is four or five years since I have been connected with it.

Q. Who was your successor in office? A. C. W. Petry.

Q. I show you a letter purporting to be signed by you, and ask you whether that is your letter? A. Yes, sir."

I offer that letter in evidence and ask to have it marked "Plaintiff's Exhibit 80."

Mr. Mulholland:

2648 Exception.

(Marked "Plaintiff's Exhibit 80.")

"Headquarters Alemeda Federated Trades Council. Affiliated with the American Federation of Labor. P. B. Preble, Secretary, Treasurer, 378 13th Street.

Meets every Thursday evening at California Hall, 1015 Clay Street, Oakland, Calif., August 4th, 1903." There is also: "Amalgamated Wood Workers." This all appears in the heading —

"Bakers

Brewery Workers, 2649
Bar Tenders,
Barbers,
Butchers
Boot and Shoe Workers
Building Laborers
Beer Bottlers,
Carpenters,
Cigar Makers,
Cooks and Waiters,
Flour and Feed Mill Operatives,
Garment Workers, 2650
Iron, Steel and Tin Workers,
Laundry Workers,
Longshore Lumbermen,
Milk Wagon Drivers,
Machinists,
Musicians,
Printing Pressmen
Retail Clerks,
Stationary Engineers
Street Railway Employees,
Stablemen, 2651
Stevedores,
Textile Workers,
Team Drivers, Tailors,
Typographical,
Tanners.

"Mr. Bernstein, Dear Sir: At the last meeting of the Federated Trades Council I was directed to request you to appear before the Executive Committee and show cause why your store should not be put on the unfair list on account of complaints made by the International Hatters' Union, Respectfully P. B. Breble, Secretary.' 2652

Q. After examining that letter, can you state when you went out of office as Secretary? A. Well, I presume it must have been in 1904 that I went out, because it was in the Spring of the year. I went to Portland on a visit immediately after that, or at least during the summer of that year.

Q. You were secretary at the time this letter was written? A. I was.

2653 Q. Were you present at the meeting of the Federated Trades Council to which the letter refers? A. Well; I can't state to what particular meeting the letter would refer. I was Secretary, and I was present at all the regular meetings of the organization while I was Secretary.

Q. Do you recall any complaint being made by the International Hatters' Union as stated in this exhibit? A. I remember that a delegate from the Hatters' Union appeared before the Council in relation to matters connected with his union.

2654 Q. Do you recall now any of the discussion that took place there? A. Not except in a general way.

Q. Do you recall the names of any concerns being mentioned by this delegate? A. Yes, sir.

Q. What were those names? A. The name of Triest & Co., I believe, was the name of the firm.

Q. Do you recall any other name? A. No.

Q. Could you state whether the name of D. E. Loewe & Co. was mentioned? A. Yes, sir; I think that name was mentioned.

2655 Q. Do you recall the action the Council took in reference to this matter? A. Not any more than this communication would indicate.

Q. This letter was written then as the result of the meeting of that Council, as it states? A. Yes, sir.

Q. Did you ever see the handwriting of Charles W. Petry? A. I could not say.

Q. You could not say whether you have or not? A. No.

Q. And you would not recognize it if you saw it? A. No.

2656 Q. Do you recall sending out any other circulars of that kind? A. No, I do not.

Q. You state that Mr. Petry was your successor in office? A. Yes, sir."

I now read the testimony of

D. C. CRAWFORD, 233.

"Q. State your name, age, residence and occupation? A. My name is D. C. Crawford, age 38. I reside at 822 Brush Street, Oakland, occupation band-sawyer.

Q. Are you a union man today? A. Yes, sir; I be- 2657
long to one of the unions.

Q. What union? A. To the millmen's union.

Q. How long have you been connected with that union? A. Since 1900.

Q. Are you an officer in it? A. No, sir.

Q. Have you ever been? A. I was; yes, sir.

Q. Do you know anything about the "Central Labor Council of Alemeda County?" A. It was an organization which was formed somewhere along in 1903.

Q. Is it still in existence? A. It is; yes, sir.

Q. Have you any connection with it now? A. None 2658
whatever.

Q. You were secretary of it in 1904? A. A part of 1904 and 1903.

Q. For how long—for about a year? A. Well, ten months; that is, except two months that I was East."

Then I skip on to question 21:

"Q. Do you know Mr. Charles W. Petry? A. I do; yes, sir.

Q. Have you ever seen his handwriting? A. I have, yes, sir.

Q. Do you think you might recognize it? A. I think 2659
I could.

Q. I will show you this letter and ask you whether in your opinion that is the handwriting of Mr. Charles W. Petry? A. Yes, sir; according to my best knowledge. It looks a good deal like it. According to my best knowledge it looks like his signature. I have seen it.

Q. Do you know where Mr. Petry is now? A. At the present time I have heard he is up at Monte Rio, up along the Russian River."

Then I read that exhibit.

Mr. Beach: 2660

To which we object.

Mr. Merritt:

I ask to have it marked "Plaintiff's Exhibit 81."

(Marked "Plaintiff's Exhibit 81.")

Mr. Mulholland:

Save an exception.

Mr. Merritt:

This has the same heading on the paper as "Plaintiff's Exhibit 80" which I just read to you; containing the same

3661 list of unions affiliated with them, and "Headquarters Alameda Federated Trades Council, affiliated with the American Federation of Labor.

Oakland, Calif., September 3, 1903.

M. J. Keller Co.,
Oakland.

Dear Sir: The firm known as Triest & Co. of San Francisco, Calif., is considered unfair by organized labor, who have concluded to cease purchasing hats coming from said firm. For further information we would be pleased to have you attend a meeting of our Executive Board to
3662 be held September 9th, 8 P. M, 453 Eighth Street, Charles W. Petry, Secretary."

The Court:

Well, we will take a recess until two o'clock.

Afternoon Session, September 10, 1912.

Now I read the deposition of

ALLENBERG LEOPOLD.

"Mr. Merritt:

"Q. 1. State your name, age, residence and occupa-
3663 tion? A. My name is Allenberg Leopold; my age is 49; my residence is 1571 Grove street, San Francisco; occupation, salesman.

"Q. 2. You are connected with the hat business, are you? A. Yes, sir.

"Q. 3. How long have you been connected with it? A. For about 27 years.

"Q. 4. Were you ever connected with the firm of C. H. Meyer & Brothers? A. Yes, sir.

"Q. 5. They are hat dealers in this city? A. They were hat dealers in this city, yes, sir.
3664 "Q. 6. Are they still in business? A. No, sir; they discontinued.

"Q. 7. How long were you connected with them? A. Very close to 24 years.

"Q. 8. They were wholesalers? A. They were wholesalers, yes, sir.

"Q. 9. What time did they go out of business? A. They went out of business on the 31st of December, 1904.

"Q. 10. What was your position in connection with

their business? A. Manager, assistant buyer, salesman and bookkeeper. 2665

"Q. 11. Did you make most of their purchases of hats? A. Yes, sir.

"Q. 12. Were you instructed by members of the firm where to purchase them? A. No. One member of our firm, residing in New York, at the beginning of every season, sent us a line of samples from different factories in New York, from which I made a selection.

"Q. 13. And you had the authority yourself to determine where the goods should be purchased? A. Yes, sir; I simply looked at the hats and decided which were 2666 most salable.

"Q. 14. You purchased some hats from D. E. Loewe & Co., did you not? A. Yes, sir.

"Q. 15. During what period did you patronize D. E. Loewe & Co.? A. Prior to 1902 for at least ten or twelve years.

"Q. 16. What led you to patronize D. E. Loewe & Co.? A. Simply the value and the styles of their goods.

"Q. 17. You found their goods compared favorably with other lines that you examined? A. Yes, sir.

"Q. 18. Do you remember, during your connection 2667 with this house of C. H. Meyer & Brothers, whether you or the house received any visits or communications asking you to discontinue your patronage with Loewe & Co.? A. If I recollect rightly one day I was in the store, Mr. Meyer was absent, and a gentleman came in and asked me—

"Mr. Frost (interrupting):

Just a moment, you are not answering the question. Just listen to the question and answer it yes or not.

"(The question was here read by the reporter.)

"A. Yes, sir.

"Mr. Merritt: 2668

"Q. 19. Will you state whether or not the house received any visits from any one concerning this matter? A. I am sure one gentleman called in there and wanted to know—

"Q. 27. Did the firm of C. H. Meyer & Brothers follow out your statement to this man not to handle any more of the goods of D. E. Loewe & Co.? A. Yes, sir. I didn't make that statement on my own responsibility; after we knew there had been a boycott levied on D. E. Loewe

2669 & Co., and also on Triest & Co., San Francisco, we consulted together, and we found it—at least we thought we did—to our advantage to discontinue buying from Loewe & Co., as we didn't want to be boycotted.

"Q. 28. Who do you refer to when you say 'we'? A. Mr. L. C. Meyer, M. C. Meyer and myself, the firm of Meyer Brothers.

"Mr. Merritt:

"Q. 30. Since that date what goods, if any, did C. H. Meyer and Brothers purchase from D. E. Loewe & Co.?

2670 A. None that I am aware of.

"Q. 31. Can you give the date of this man's visit, approximately? A. Really I couldn't; it was sometime after the boycott was levied on D. E. Loewe & Co. and Triest & Co.

"Q. 32. You can that the firm of C. H. Meyer & Brothers went out of business in 1904? A. Yes, sir, at the end of 1904.

"Q. 33. Can you not tell us approximately how long before that it was that they ceased patronizing D. E. Loewe & Co.? A. A couple of years before that.

"Q. 34. Would you say it was in 1903? A. Either

2671 the fall of 1902 or the beginning of 1903, I could not say which. You know in a business of that sort you sometimes have to buy to fill in a line of goods even if you don't use the full line.

"Q. 35. Now, tell me exactly why you, in connection with the other two members of this concern, decided not to buy the Loewe goods? A. A great many of our friends at that time received a circular to the effect that Triest & Co. were boycotted on the strength of their buying the product of D. E. Loewe & Co., of New York. We also and customers came to us with the news that Triest &

2672 Co. were boycotted, and, having a good deal of trade in the neighboring towns, we consulted and determined that the interests of our business demanded that we should discontinue buying from D. E. Loewe & Co., as we didn't want to be in the same condition as Triest & Co."

And now the deposition of

2673

HERMAN WELISCH.

"Mr. Merritt:

"Q. 1. State your name, age, residence and occupation? A. My name is Herman Welisch; age, fifty-four; I reside in San Francisco. My occupation is that of commission merchant.

"Q. 2. During what period of time were you engaged in the sale of hats in San Francisco? A. I believe in 1903, between February and August or September; I don't remember exactly the time.

2674

"Q. 3. At that time did you buy hats of Triest & Co.? A. Yes, sir.

"Q. 4. Were you doing business under your own name? A. Yes, sir.

"Q. 5. Have you any idea of the amount of hats you bought of Triest & Co. at that time? A. I could not give you any exact amount, I have no idea. The first purchase was over $1,000. I am sure of that.

"Q. 6. You bought some additional purchases after that time? A. Yes, sir, but I could not tell you now, it is so long ago. I went through the earthquake, you know,

2675

and my memory on a matter of that kind would be very unreliable.

"Q. 7. Could you state whether or not you bought $500 worth after that time? A. Oh, I must have bought as much as that.

"Q. 8. Could you state whether or not you bought $1,000 worth after that time? A. I would not be positive. The chances are I did.

"Q. 9. Have you your books? A. No, I have no books; they were all destroyed.

"Q. 10. How were they destroyed? A. I left them

2676

in my own place there and never looked for them after I quit there. All my books I left at the old store; I never took them home.

"Q. 11. Were they destroyed by the fire? A. I presume they were; I left them there and I don't know what has become of them.

"Q. 12. During that period when you were doing business in San Francisco were you ever visited by any one who requested you not to purchase hats from Triest

2677 & Co.? A. Yes, sir; I believe it was in July, 1903, if my memory serves me right.

"Q. 13. Do you remember the gentleman who called on you? A. I would not remember his face; I know his name.

"Q. 14. What was his name? A. Kelly; I don't know his initials.

"Q. 15. Who did he represent himself to be? A. He represented the Hatters of North America, I believe.

"Q. 16. Did he hand you any documents or papers of any kind? A. Yes, sir, he handed me a circular.

2678 "Q. 17. Have you that circular in your possession? A. No, I have not it in my possession; I sent it to Triest & Co. at the time it was sent to me.

"Q. 18. Would you know the circular if you saw it? A. If I saw the circular I would not know whether it was the identical same circular, but I sent that circular to Triest & Co. as soon as it was sent to me.

"Q. 19. I show you 'Plaintiffs' Exhibit No. 57' and ask you whether or not you can state whether that is a copy of the circular you received? A. Yes, sir, it looks like a copy of it; whether it is the original I don't know. This 2679 is the kind of a copy I received. It was handed to me.

"Q. 20. Thereafter handed to you by whom? A. That was handed me by Mr. Kelly.

"Q. 21. What conversation, if any, took place between you and Mr. Kelly at that time?"

Mr. Mulholland:

We save our exceptions to any conversation between the deponent and Mr. Kelly for the reasons that were stated this morning.

Mr. Merritt:

2680 "First, what did he say to you? A. To the best of my recollection he told me that I should cease to patronize Triest & Co., as they were handling goods of an unfair house, Loewe & Co., and the Triest & Co. was an unfair house, and that if I don't cease buying from them I would lose the patronage of the laboring men.

"Q. 22. What did you reply to him? A. Well, I replied to him that I had just had American stuff enough in me that I would patronize whoever I pleased; that this house treated me well for years; that I traded with Triest

& Co. for almost a quarter of a century, and I would stay by them. 2681

"Q. 23. Did he state anything further to you after that? A. That I would do that at my own risk, at my own loss.

"Q. 24. I show you a letter which purports to be signed by you and I ask you whether or not that is your lettering (handwriting)? A. That is my handwriting, yes, sir.

"Q. 25. That letter was written at about the date which it bears? A. Yes, sir; July 20, 1903.

"Q. 26. What relation in point of time does the writing of that letter bear to the time that Mr. Kelly came and saw you? A. Kelly came there the same day, or the day before that." 2682

Mr. Mulholland:

That is objected to, save our exception. Do you offer it?

Mr. Merritt:

I ask that the stenographer mark it for identification. (Said document marked Plaintiff's Exhibit 82 for identification.)

Mr. Merritt: 2683

This paper which I ask to have marked Exhibit 82 for identification is the paper referred to in the deposition as Exhibit 69.

"Q. 27. Did you hear anything further from these people in reference to this matter? A. From which people.

"Q. 28. From Mr. Kelly? A. No, I did not hear anything further from him.

"Q. 29. Did you receive any communications or visits from any other labor unions with reference to this matter? A. Not that I recollect. 2684

"Q. 30. When did you go out of business?"

Mr. Merritt:

I now read the deposition of

CHARLES G. MEUSSDORFFER.

"By Mr. Merritt:

Q. 1. State your name, age, residence and occupation? A. My name is Charles G. Meussdorffer; age 43; a resident of San Francisco; occupation, merchant.

2,2685 "Q. 2. As a merchant do you deal in hats? A. Yes, sir.

"Q. 3. Where is your place of business? A. I am not in business for myself since the fire. I am with Herman & Co., hatters.

"Q. 4. Were you in business for yourself prior to the fire? A. Yes, sir; and was burned out.

"Q. 5. In San Francisco? A. Yes, sir.

"Q. 6. How long had you been in business at that time? A. For myself, do you mean?

2,2686 "Q. 7. Well, yes? A. Well, I had been in partnership with my father from 1890 to 1898, and then I bought my father out and was in business myself at the time of the fire.

"Q. 8. You dealt in hats during all that time? A. Yes, exclusively.

"Q. 9. You are acquainted with Triest & Co.? A. Yes, sir.

"Q. 10. And have purchased hats from them? A. Yes, sir.

"Q. 11. During what portion of that period? A.

2,2687 During the whole period I was with my father, and even before I went in partnership with him.

"Q. 12. Were your relations with them satisfactory? A. Yes, sir.

"Q. 13. I will ask you whether or not you have ever received any communications or visits from anyone asking you to discontinue patronage with Triest & Co.? A. Yes, several letters, and one man I believe from the East; one or possibly two.

"Q. 14. Taking up first the visit, do you recall the name of this man you refer to as coming from the East?

2,2688 A. I think his name was something like Wisli or Wisler. I could not tell you exactly, it is so long ago.

"Q. 15. Would you recall the name of the man if you heard it? A. I could not say positively, but I think I would.

"Q. 16. Did you ever meet a Mr. Hennelly? A. No.

"Q. 17. Or a Mr. Kelly? A. No, sir.

"Q. 18. Do you recall about the time you received this visit? A. I think it was about three years before the

first; something like that as near as I can remember. It 2689
may be a little less or a little longer.

"Q. 19. That would place it about when? A. About 1903.

"Q. 20. You cannot state what part of the year? A. I think it was the Fall; yes, it was the Fall of the year. I had just come back from the country from my vacation.

"Q. 21. Can you give us the substance of the conversation that took place at that visit?"

Mr. Mulholland:

That is objected to; save an exception.

Mr. Merritt: 2690

"A. This party came in and asked me whether I bought goods from Triest & Co., and I said 'Yes.' He said he would advise me not to do it, and said there had been a boycott of Triest & Co. and Loewe & Co. I told him I didn't think it amounted to much. He advised me not to continue to patronize them, there may be trouble for me. I told him I didn't think there would be.

"Q. 22. You stated that you received some written communications? A. Yes, sir.

"Q. 23. Do you recall whether or not those communications came to you from the same man who visited 2691
you? A. No, sir, they came from local unions.

"Q. 24. I hand you a circular bearing date September 14th, 1903—"

"Q. 24. I hand you a circular bearing date September 14th, 1903, and purporting to be signed by R. I. Wisler, secretary of the San Francisco Labor Council, and ask you whether or not you ever saw that circular before? A. Yes, sir, I have received a circular of that kind.

"Q. 25. Could you state whether or not the signature on that circular is the same name as the name of the men who called on you? A. I would not like to swear to 2692
that positively.

"Q. 26. But you think the name was Wisler? A. Yes, sir."

I offer this circular.

Mr. Mulholland:

To which we object.

Mr. Merritt:

I ask to have it marked in evidence—no, this has already been read in evidence apparently, and is marked

26 2693 Exhibit 73. It is a letter to K. Meussdorffer, signed by R. I. Wisler, Secretary San Francisco Labor Union. It must have been offered and read in the deposition of Mr. Wisler.

"Q. 27. On this circular or letter dated September 14, 1903, appears the name 'K. Muessdorffer, Kearny Street.' A. Yes, sir. I was the firm at that time.

"Q. 28. Is that the street on which your business was conducted at that time? A. Yes, sir, 8 Kearny street.

"Q. 29. Did you receive any other circulars? A. Yes, from several local unions.

26 2694 "Q. 30. Have you any of them? A. No, they are all destroyed.

"Q. 31. Do you recollect their contents? A. Yes, simply notifying me—

"Q. 32. Just answer yes or no? A. Yes, sir.

"Q. 33. Would you know a copy of any of these circulars if you saw one? A. Well, I would not remember the circular, but there were two unions that I remember distinctly, the Furniture Makers' Union and the Horseshoers' Union.

26 2695 "Q. 34. You recall receiving circulars from those two unions? A. I am almost positive those are the two particular unions I received circulars from.

"Q. 35. What did you state to this man who called on you?"

Mr. Mulholland:

Same objection; exception.

Mr. Merrit:

"A. Well, I told him I didn't think it amounted to anything and unless it was an injury to my business I would continue to patronize them, being on friendly terms with Triest, but I had to drop them after a while and only

26 2696 bought very few goods from them, very few.

"Q. 36. Did you inform this man that you would drop the line? A. Yes, sir.

"Q. 37. Have you the books with you? A. My books were all destroyed in the fire.

"Q. Do you recall the amount of business you did with Triest & Co. during those respective years in which you dealt with them? A. I could not state positively, but it ran all the way from $200 to $300, maybe $150 to $200

a month; sometimes more, sometimes less. There was a time when I bought considerably more goods. 2697

"Q. 39. Can you state an amount covering the business transactions in 1902 which you would be willing to swear to as being at least the amount of business you did with them then? A. I have nothing to refresh my memory with. I have no books. I am fairly sure that it was anyhow $1,500 that year, if not more. I think that was the least.

"Q. 40. You would be willing to testify that it was $1,500? A. As near as I can remember, yes, sir.

"Q. 41. Would you be willing to testify that it was no more than that? A. It would be pretty hard for me to say. 2698

"Q. 42. Would you be willing to testify that it was no less than that? A. In 1902 and 1903?

"Q. 43. No, in the year 1902? A. Well, it comes pretty nearly $1,500.

"Q. 44. You testified that the amount of business transacted with them was greatly reduced? A. Yes, sir.

"Q. 45. Can you tell the date when this reduction took place? A. Well, it must have been two or three months after this gentleman called on me. The reason that I did it was that several of the Labor papers had my name in as being on the blacklist. 2699

"Q. 46. You stated that this gentleman called in the Fall of 1903? A. Yes, sir.

"Q. 47. Can you tell what the amount of your business transactions with Triest & Co. was during the year 1903, and up to the time this gentleman called on you? A. A little before that it was a little more because business was picking up, it was getting better. I should judge that it was more than it was in 1902, but just exactly how much more I could not say. 2700

"Q. 48. How would you say that the monthly purchase in 1903 compared with the monthly purchases in 1902 for the same month? A. I should judge it was more, as well as I can remember.

"Q. 49. Did the concern of Triest & Co. deal in both union and non-union hats at that time? A. Yes, in fact. I paid no attention to the label one way or the other until it was brought to my attention.

2701 "Q. 50. And you stopped purchasing union hats as well as non-union hats? A. Yes, sir.'

Are you going to read the cross? Do you want to look it over?

Mr. Mulholland:

"CROSS EXAMINATION

By Mr. Beach:

"Q. Do you mean to say that there were some years in which you did a larger business with Triest & Co. than was done in 1902? A. Do you mean in some years be-

2702 fore?

"Q. Yes, before? A. Well, I think there may have been one or two years that business was a little better; I don't remember.

"Q. Did you testify that you are at present a customer of Triest & Co.? A. Not at present. I have not been in business for myself since the fire.

"Q. What was the fact in 1906, prior to the fire? A. Yes, I patronized them, but not to the extent I did before the boycott.

2703 "Q. I will ask you the extent of your dealings with Triest & Co. during 1905, to the best of your recollection? A. Well, I have bought heavier in 1905, because I had two stores, one at 213 Kearny and one at 8 Kearny. I bought more goods of Triest then.

"Q. What was the extent of your dealings in 1904? A. Well, then I didn't buy but a little on account of the trouble about the boycott.

"Q. Can you tell us in a general way what you mean by very little? A. Well, I don't think the whole year I bought more than 3 to 5 hundred dollars in the year, if I bought that much."

2704 Mr. Merritt:

I now read the deposition of

M. HART.

"Q. State your name, age, residence and occupation? A. My name is M. Hart, age 66, residence 2620 California street, San Francisco, occupation, merchant.

"Q. How long have you been engaged in the business of buying and selling hats in San Francisco? A. 37 years. 2705

"Q. During what portion of that period of time have you purchased hats from Triest & Co.? A. I will say 12 years up to now.

"Q. During the past 12 years you have dealt with them? A. Yes, sir.

"Q. Did you ever receive any communications asking you to stop dealing with Triest & Co.? A. I did.

"Q. Have you any of them? A. I have not now.

"Q. Would you recognize any of them if you saw them? A. I believe I would. 2706

"Q. I show you plaintiff's Exhibit 63 and ask you to state whether or not that is a copy of a circular such as you received? A. I received a similar circular to this, or one like that.

"Q. But aside from the name written at the top, to the best of your recollection that circular is the same as the one you received? A. Yes, sir.

"Q. Did you receive any other circular? A. I did not.

"Q. Do you know approximately the date when you received that circular? A. I don't know now. 2707

"Q. Could you give the year? A. 1905.

"Q. Were you ever visited by anyone in this connection? A. I was.

"Q. Do you recall the gentleman's name? A. The gentleman introduced himself as Mr. Kelly.

"Q. Did he say whom he represented? A. He did.

"Q. Whom did he represent? A. Hatters' Union, or some union.

"Q. What did he say to you? A. He asked me whether I was buying goods from Triest & Co. I told him I was, and he told me I had to discontinue buying of them, because they were an unfair house. 2708

"Q. What did you reply to him? A. I would think the matter over.

"Q. Did he state anything more at that time? A. Yes, sir.

"Q. What else? A. He said if I continued buying of them I would be boycotted.

2709 "Q. Did he visit you more than once? A. I think so.

Q. Did anyone else call on you in this connection? A. I don't remember.

"Q. Do you recall ever being visited by Mr. Wisler in this connection? A. I don't recall it.

"Q. Will you state what relation in point of time Mr. Kelly's visit there to the date that you received this circular? A. I think it was shortly afterwards, I cannot tell the time, but they called after I received the circular.

"Q. Haven't you any way to place the date? A. I 2710 cannot place it.

"Q. Did you have any conversation with Mr. Triest at that time? A. Not at that time; subsequently.

"Q. How long after? A. Perhaps within a week or so.

"Q. Then you could testify that the date when you conversed with Triest concerning this matter was within a week of the time of this man's visit to you? A. Yes, sir."

Now I read the deposition of

2711 H. KINSPEL.

"Mr. Merritt:

"Q. 1. State your name, age, residence and occupation? A. My name is H. Kinspel; age thirty-six; residence 130 Pine Street; occupation merchant.

"Q. 2. How long have you been engaged in the business of buying and selling hats in San Francisco? A. I have been buying hats from San Francisco from 1893 up to 1903, or rather 1904. That is, during that time.

"Q. 3. Where were you doing business in the years 1893 to 1904? A. In Bakersfield, Kern County, Cali- 2712 fornia.

"Q. 4. As a retailer? A. As a retailer.

"Q. 5. And you dealt in hats? A. Hats, clothing and furnishing goods; also shoes.

"Q. 6. When did you quit doing business in Bakersfield as a retailer? A. I quit doing business in Bakersfield in the month of February, 1904.

"Q. 7. When did you begin doing business there? A. As near as I can remember in the month of September, 1893.

"Q. 8. Did you ever purchase any hats from Triest & Co. during that period? A. Yes, sir. 2713

"Q. 9. Were you ever visited by any one asking you to cease patronizing Triest & Co. during that period? A. Yes, sir; I was visited by a representative from the union in the month of July, 1903; and I was asked to stop buying goods from the concern of Triest & Co.

"Q. 10. Do you recall the gentleman's name? A. I don't know whether I know; it is some years ago now.

"Q. 11. Would you know if the name was Hennelly? A. That name rather sounds familiar. It would not surprise me that that was the name. 2714

"Q. 12. Whom did the man represent himself to be? A. Well, he represented himself to be, I think, a practical hatter, stating he was sent out of Danbury, Connecticut, on behalf of the Hatters' Union.

"Q. 13. What did he say to you concerning the object of his visit? A. It seems he was very well posted. He could see at a glance by the cartons that we carried Triest & Co.'s goods, and he told us that in future it would be safer for us to quit buying from the firm on account that they were boycotted, and if we did not he would see that those things were reported to the unions. 2715

"Q. 14. He would see what things were reported to the unions? A. That our firm—that the firm of H. Kinspel was reported to the unions of buying goods against the wishes of the union, or buying hats from the Triest concern against the wishes of the union.

"Q. 15. Did you purchase both union and non-union goods from Triest & Co. at that time? A. Yes, sir; we carried both, but mainly from the Triest Hat Company up until that time.

"Q. 16. Was this man's request limited to the non-union goods that you purchased from Triest & Co., or did it include all purchases from Triest & Co.? A. He said any goods that were bought from the Triest Hat Company. 2716

"Q. 17. What else did he say, if anything? A. I did not like the idea of the man coming in at the time and I censured him for it. I told him that it was an outrage to antagonize a firm of the style and character of the Triest Hat Company.

2717 "Q. 18. That is what you stated to him? A. Yes, sir.

"Q. 19. What did you state to him as to his request that you should not patronize Triest & Co.? A. I considered it wrong at the time, really.

"Q. 20. Did you refuse to give in to it, or did you tell him that you would comply with it? A. I told him I would not comply with it; I opposed it.

"Q. 21. What, if anything, did he say then? A. It seems he did not leave the store in a very pleasant spirit, after he heard me say that, although really I did not buy
2718 much goods afterwards from the Triest Company. I was afraid, being in a small town, that I might be antagonized by the unions.

"Q. 22. For how long did you refrain from patronizing Triest & Co.? A. I have not bought very much goods after that affair, on account of the fact that seven or eight months after that man called I retired from business in Bakersfield.

"Q. 24. What was the extent of your purchases during that seven or eight months that followed Mr. Hennelly's visit, in a general way? A. I don't know whether
2719 they would come up to $500 or not.

"Q. 25. Can you state whether or not the purchases you made subsequent to the date of this man's visit were union or non-union goods—after this man visited you?"

Mr. Mulholland:

Has the date been fixed of this man's visit?

Mr. Merritt:

Yes; July, 1903.

"A. Well, I have never really paid much attention to it. I did not care enough one way or another.

2720 "Q. 26. Can you state the extent of the purchases that you refrained from giving Triest & Co. on account of this man's visit and what he stated? A. Yes, sir; quite considerable. I did not care to buy any goods East at that time, and if things were under agreeable conditions I think I would have bought much heavier. The Triest Hat Company were at the time really selling me more goods than any one else in San Francisco."

Mr. Mulholland:

CROSS EXAMINATION

By Mr. Beach:

"Q. 1. When did you go out of business in Bakersfield? A. In the month of February, 1904.

"Q. 2. When was it that you went into business there? A. In 1893.

"Q. 3. What month? A. It was in the Fall of the year; really I cannot remember that.

"Q. 4. Do you remember whether it was October? A. It was along in September or October, if my recollection is right.

"Q. 5. When did you say you were called upon by Mr. Hennelly? A. In the month of July, 1903.

"Q. 6. Where were you doing business then? A. At Bakersfield, California.

"Q. 7. What was your business at that time? A. Retail dealer in clothing, furnishing goods, hats and shoes.

"Q. 8. What became of your business when you left it, did you sell it out to somebody else? A. Yes, sir; I sold out the stock to another dealer in the same town.

"Q. 9. Up to the time when Mr. Hennelly called upon you did you buy exclusively from Triest & Co.? A. No, sir; not exclusively, but as much as I bought on the Coast I think I bought of the Triest Hat Company.

"Q. 10. You also bought from Eastern manufacturers? A. Yes, sir.

"Q. 11. What proportion of your stock did you buy from Mr. Triest? A. About forty per cent, I guess.

"Q. 12. When did you first determine to close out your business in Bakersfield? A. In the Fall of 1903. I had just recovered from an ailment, and under the advice of my physician I simply had to abandon the climate.

"Q. 13. After having determined to close out the business, did or did not your purchases of other stock besides hats cease? A. Yes, sir."

Mr. Merritt:

The deposition of

JOHN A. McCORMICK.

"Q. State your name, age, residence and occupation? A. My name is John A. McCormick, age 34, residence 760 Cole Street, occupation hatter.

2725 "Q. How long have you been dealing in hats, Mr. McCormick? A. Going on ten years.

"Q. Under what name? A. Under the Columbia Hat Works, and then McCormick Hat Works, incorporated.

"Q. During what portion of that period have you purchased hats from Triest & Co.? A. I have been buying hats from Mr. Triest since I have been in business up until the time of the boycott, and then I had to quit.

"Q. What boycott do you refer to? A. The boycott in regard to Triest & Company handling Loewe hats."

2726 Then I skip to question 15.

"Q. Did you receive any visits from any one in this connection? A. I received visits from Mr. Kelly and Mr. Hennelly who represented the United Hatters of North America.

"Q. Do you recall the dates when you received those visits? A. No, sir, I really could not. I think it was in 1903 and 1904.

"Q. What relations did their visits bear in point of time of the receipt of these circulars?"

I will go back to question 13.

2727 "Q. I will show you Plaintiffs' Exhibit 57 and ask you if you can testify on the question if that is a copy of a circular which you received? A. Yes, sir.

"Q. Can you tell how many circulars you received of that kind? A. I really could not tell; at least several of them, or more."

I offer this circular in evidence.

Mr. Mulholland:

That is objected to; exception. The court ruled on practically the same circular the other day.

(Said paper marked Plaintiffs' Exhibit 83.)

2728 Mr. Merritt:

"San Francisco Labor Council.

"Secretary's office, 927 Market Street, etc.

"Affiliated with the American Federation of Labor.

"Meets every Friday at 1159 Mission Street.

"Address all communications to 927 Market Street.

"San Francisco, July 3, 1903.

"To Whom it May Concern.

"At a meeting of the San Francisco Labor Council, held on the above date, the hat jobbing concern known

as Triest & Co., 116 Sansome Street, San Francisco, was 2729
declared unfair for persistently patronizing the unfair hats and manufacturing concern of D. E. Loewe & Company, Danbury, Connecticut, where the union hatters have been on strike for union conditions since August 20, 1902. Triest & Co. will be retained on the unfair list as long as they handle the products of this unfair hat manufacturing Co.

"Union men do not usually patronize retail store who buy from unfair jobbing houses or manufacturers. Under these circumstances all friends of organized labor and those desiring the patronage of organized workers, will 2730
not buy goods from Triest & Co., 116 Sansome Street, San Francisco.

"Yours respectfully,
"G. B. Benham,
"President S. F. Labor Council.
"T. E. Zant,
Secretary S. F. Labor Council.
"W. C. Hennelly,
"D. D. Kelly,
Representing the United Hatters of
North America." 2731

This Exhibit 83 is the one referred to in the examination of Mr. McCormick as Exhibit 57.

"Q. Did you receive any other visits from any one in this connection? A. I received visits from Mr. Kelly and Mr. Hennelly who represented the United Hatters of North America.

"Q. Do you recall the dates when you received those visits? A. No, sir, I really could not say. I think it was in 1903 and 1904.

"Q. What relation did that visit bear in point of time to the receipt of these circulars? A. The circu- 2732
lars were sent to me by mail, and I did not state whether Mr. Hennelly or Mr. Kelly came in the same day or not.

"Q. Could you state whether the two events took place in the same month? A. Yes, sir.

"Q. You testified that all of these circulars came to you through the mail? A. Yes, sir.

"Q. Did Mr. Kelly or Mr. Hennelly hand you any printed or written matter? A. Really I don't know, I don't remember that.

2733 "Q. Did Mr. Kelly and Mr. Hennelly come together? A. Mr. Kelly came first, and then Mr. Kelly and Mr. Hennelly came together.

"Q. Do you recall any of the conversation that took place between you and Mr. Kelly on the first visit? A. In regard to that I will state that Mr. Kelly came in there in regard to my buying hats from Triest & Co. and told me I would be boycotted and put on the unfair list if I didn't stop patronizing Triest & Co. I told Mr. Kelly that I was buying hats from Triest & Co., and the shapes I wanted they had, and the other hat they did not have.

2734 Mr. Kelly told me I would have to stop patronizing them. I told Mr. Kelly then that what I was buying was principally union-made hats. He said it did not make a damn bit of difference whether they were or not, that Triest & Company were handling union made hats to try and get rid of their Loewe stuff. That was one of the conversations, and there were several conversations leading up to the same thing.

"Q. Did he state by whom you would be boycotted, or on what unfair list you would be placed? A. I would be boycotted by the Building Trades and Labor Council,

2735 which I was.

"Q. Whom did Mr. Kelly represent himself to be? A. He represented himself as business agent and delegate of the United Hatters of North America.

"Q. How long after that visit was it when Mr. Hennelly came? A. I could not really state that; shortly afterwards.

"Q. At that time they came together? A. Yes, sir, they came in together.

"Q. Whom did Mr. Hennelly represent himself to be? A. The United Hatters of North America.

2736 "Q. A representative of that organization? A. Yes, sir.

"Q. Do you recall the conversation that took place at that time? A. We had different conversations in regard to the Loewe business, and we patronizing Triest & Co., that I had to quit buying from them, and that they were on the unfair list, and I would be boycotted.

"Q. Are those the only visits that you recall? A. Well, different visits. Another time I had some hats ordered for one of the unions for Labor Day, and the stuff

just came in from Triest & Co. I had an argument with Mr. Kelly in regard to them, stating that it was a union-made hat, and I didn't see why I wouldn't be allowed to have it. He told me if I wanted to do any business I would have to send the hats back. 2737

"A. And the committees came and told me that if I did not quit buying from them I wouldn't be able to do any business with them, to sell them any hats for Labor Day.

"Q. Did the hats which Mr. Kelly objected to bear the union label? A. Yes, but it didn't make any difference whether they were union or not, because Triest was handling non-union hats made by D. E. Loewe & Co. 2738

"Q. You are testifying now to what he said at that time? A. Yes, sir.

"Q. What committees are you referring to now that visited you? A. I really could not state, because I had committees from all the different unions in San Francisco.

"Q. How many times do you remember being visited? A. I had committees from the unions coming in at all times to see me, because the year before that I supplied, I think it was 40 odd unions. 2739

"Q. Limit yourself to the question please. What assurances, if any, did you give Mr. Kelly and Mr. Hennelly on either of these occasions? A. Well, I went to see Mr. Kelly and Mr. Hennelly at the Lick House.

"Q. Just a moment. I am referring now to the visits which you received from Mr. Kelly and a visit from Mr. Kelly and Mr. Hennelly together. Did you at that time give them assurances as to what your attitude would be toward their requests? A. I was told I could not do business with the Labor Union unless I promised them not to buy any hats from Triest & Co. 2740

"Q. I am asking what you replied to them? A. I promised that I would not buy any more of them.

"Q. Did you keep that promise? A. No, sir. I broke it.

"Q. After you broke that promise did you hear anything further from these people? A. Yes, sir.

"Q. What took place? A. Mr. Kelly and Mr. Hennelly came to me in regard to a hat that I could not get from anybody else, and I stated that my business de-

manded that I would have that style of hat. So nothing was said about it for some time afterwards. Then in the following year I went to see Mr. Kelly and Mr. Hennelly.

"Q. Why did you go to see them? A. In regard to the boycott, because my business was being hurt on account of my being advertised on them slips of paper that I was patronizing Triest & Co.

"Q. How did you know your business was being hurt? A. I know it.

"Q. Did your sales decrease? A. Yes, sir.

"Q. What other knowledge had you that you were being boycotted other than the fact that your name appeared on that circular? A. Well, for the reason that the members of different unions who were friends of mine would come in and tell me about it.

"Q. I will ask you whether different people came in to see you after the time that Mr. Kelly made his visit and Mr. Kelly and Mr. Hennelly made their visit? A. Yes, sir.

"Q. You have testified that Mr. Kelly and Mr. Hennelly were up at the union night after night. What do you know about that? A. I know they were up there talking in regard to Triest & Co.

"Q. How do you know it? A. Because I see them there, and had a man outside waiting for me.

"Q. You saw them at union headquarters yourself? A. Yes, sir.

"Q. Did you hear anything they said? A. I did not.

"Q. Now you stated that you went to see Mr. Kelly and Mr. Hennelly? A. Yes, sir.

"Q. I will ask you how long after the time they made these two first visits it was that you went to see them? A. I really couldn't say.

"Q. Was it 6 months? A. Oh, no, it might have been a month or a couple of weeks.

"Q. Why did you go to see them? A. I went to see them in regard to the boycott.

"Q. You found them, you stated, at the Lick House? A. Yes, sir.

"Q. Where was that? A. That was on Montgomery Street between Coast and Sutter.

"Q. In San Francisco? A. Yes. 2745

"Q. Now I want to know what took place there and what you saw? A. Mr. Kelly and Mr. Hennelly were in there. They had a typewriter on the desk, and had circulars similar to that there which they were sending around. 53

"Q. How many, could you state? A. I could not say. They had a whole table full.

"Q. Were there ten? A. There were more than ten. I really couldn't count them. The table was full of them.

"Q. Were there 100? A. Yes, sir. More than 100. There might have been 400, and there might have been 500, I couldn't state. 2746 54

"Q. What else did you see? A. They had a typewriter addressing these circulars and sending them around to the different unions.

"Q. You saw them doing that? A. No, sir. When I came in they stopped.

"Q. What conversation took place then? A. Conversation took place in regard to a party I had working for me named Chapman. He was around soliciting different members of the union. He was in arrears. He belonged to the United Hatters of North America, and was in arrears for his dues. I went down to see if I couldn't straighten it out in regard to Triest & Company on account of my buying hats from them. He told me that it was up to Mr. McCarthy and Tveitmoe and them other fellows; that I would have to see them and fix it up with them, and see if I could do any business with them. So I had to promise again that I wouldn't do any business the following year. 2747 5

"Q. Do you know who he meant by McCarthy and Mr. Tveitmoe? A. Yes, sir; P. H. McCarthy of the Building Trades Council, and Mr. Tveitmoe of the Labor Council. 2748

"Q. Do you remember Mr. Tveitmoe's initials? A. E. O., I think, I wouldn't say for sure.

"Q. Did you go to see these two gentlemen? A. I did.

"Q. How long after? A. Mr. Scott, who was employed by me, went down there, I think it was the next day.

2749 "Q. What is the full name of Mr. Scott? A. Roy Scott.

"Q. When did you go next? A. I think a couple of days after Mr. Scott had an interview with Mr. McCarthy and Mr. Tveitmoe.

"Q. Whom did you find there when you arrived? A. I found Mr. McCarthy there.

"Q. Was he alone? A. I think he was. They had a suite of rooms there. Mr. McCarthy was sitting in one and Mr. Tveitmoe in another room with a stenographer. He came in a little while afterwards.

2750 "Q. Did you see Mr. Scott there? A. Yes, sir; me and Mr. Scott went along together.

"Q. Tell us briefly as you can just what took place at that time? A. Mr. Scott had already seen Mr. McCarthy.

"Q. Tell us what took place at that time? A. We talked in regard to the boycott, and I told Mr. McCarthy what line of business I was doing in regard to the Labor Day parade, and Mr. McCarthy said he understood that, that he had seen Mr. Kelly and Mr. Hennelly and had a talk in regard to myself about it, and we had to promise

2751 Mr. McCarthy that we wouldn't buy hats off of Triest & Co.

"Q. Did you sign any paper at that time? A. Yes, sir.

"Q. Was that paper prepared in your presence, or prepared before you got there? A. No, sir, it was prepared while I was there.

"Q. I will ask you if that is the paper? A. Yes, sir.

"Q. I will ask you if that is your signature? A. Yes, sir.

2752 "Q. I will ask you if that is the Mr. Tveitmoe to whom you referred when you said you were told to go and see Mr. Tveitmoe? A. Yes, sir.

"Q. I will ask you what purpose you had in going to meet those two gentlemen, Mr. McCarthy and Mr. Tveitmoe? A. In regard to this circular here, on account of my name being on the unfair list, and being read off at different unions.

"Q. What made you think they could help you in any way? A. Because P. H. McCarthy was the president

of the Building Trades, and Mr. Tveitmoe on the Labor Council. 2753

"Q. What did Mr. Kelly and Mr. Hennelly say to you when they suggested that you visit these gentlemen? A. As soon as I brought the document back and saw Mr. Kelly and Mr. Hennelly and showed them the paper, then my name was taken off the unfair list.

"Q. You went to see Mr. Kelly and Mr. Hennelly after yous signed this paper? A. Yes, sir.

"Q. You showed them the paper, and they stated as you have testified? A. It was all right then, that I could supply the unions." 2754

Recess fifteen minutes.

Mr. Merritt:

I now read from the deposition of

MR. MORAN.

"James T. Moran."

"Q. 1. State your name, age, residence and occupation? A. My name is James T. Moran, age 60, residence Oakland, occupation merchant.

"Q. 2. As a merchant you deal in hats? A. Yes, sir. 2755

"Q. 3. What else? A. Clothing and furnishing goods.

"Q. 4. How long have you been engaged in that business? A. During the past thirty years.

"Q. 5. Always in Oakland? A. Yes, sir.

"Q. 6. Under the same name always? A. Yes, sir.

"Q. 7. And the name of the concern is what? A. J. T. Moran.

"Q. 8. In the course of your business you have purchased from Triest & Co.? A. Yes, sir. 2756

"Q. 9. Have you books with you showing purchases made from that concern from 1900? A. I have got from 1898; ten years, ten or eleven years. (Producing book.)

"Q. 10. I will ask you what these books are that you produce? A. They are my private ledgers.

"Q. 11. Books of original entry? A. Yes, sir.

"Q. 12. Kept in the ordinary course of business? A. Yes, sir.

2757 "Q. 13. Do they contain all the purchases made fromTriest & Co.? A. Yes, sir, every one.

"Q. 14. Now I will ask you beginning with the year 1900 to examine your books and tell me the amount of the purchases that you made during that year?"

Mr. Mulholland:

If the court please, we object to this testimony in reference to the business of Mr. Triest, and his customers, as it has no bearing upon the matter of purchases by Triest & Company from Loewe & Company. We object at this time because we anticipate there is considerable

2758 bulk of it, running through these various customers who purchased there. We submit ith as no bearing on the questions in this case.

Mr. Merritt:

Now your Honor, Brother Beach will recall that before we are, through with these depositions, and when we finish with Mr. Triest's deposition, it will be proven that at least a certain percentage, and I think it is 75%, of the purchases of each one of these customers of Triest & Co. from Triest & Co. were in hats of the manufacture of D. E. Loewe & Co.

2759 The Court:

I understand that to be your claim.

Mr. Merritt:

May I read it?

The Court:

Yes.

Mr. Mulholland:

Exception. May we save an exception to all of the matters of financial transactions between Mr. Triest and his various customers, so as not to interrupt.

Mr. Merritt:

2760 "A. I have a memorandum here taken from my books and for the year 1900 it is $1355.22.

"Q. 15. I will ask you for the same information concerning 1901? A. 1901 is $1337.44.

"Q. 16. I will ask you concerning 1902. A. $2384.11

"Q. 17. And will you state the amount of the business with Triest & Co. during 1903? A. $925.53.

"Q. 18. And will you state the amount of business during 1904? A. Nothing.

"Q. 19. 1905? A. Nothing. 2761
"Q. 20. Have you dealt with them since those items that you have mentioned? A. I have bought nothing since 1903.
"Q. 21. Can you give me the date of your last bill or your last purchase in 1903? A. August 4th.
"Q. 22. Then the amount of $925.53, which was purchased in 1903, was purchased on or before the 4th day of August, 1903? A. The last bill bought was $1.50 on August 4th.
"Q. 23. But the various purchases that go to make up the amount of $925.53 was all prior to the 4th day of August, 1903? A. Yes, sir. 2762
"Q. 24. Can you give me in a general way the way in which your business ran in the course of a year during that period, whether it was scattered over various months, or whether the largest purchases took place in certain seasons, and if in certain seasons what seasons? A. The Fall season is always generally our best—as a rule in the Fall.
"Q. 25. As a rule you make larger purchases in the Fall? A. No, sir. I cannot let it go that way. I buy early in the Spring and early in the Summer for Fall, but in buying locally where I would have to buy from time to time, it would be Fall and Spring. There would be nothing doing in midsummer—where I would be buying locally; that is the idea. 2763
"Q. 26. I will ask you whether your buying from Triest & Co. would come under the head of what you would call buying locally? A. Yes, sir.
"Q. 27. Then your purchases from them, generally speaking, would seem to be in the greater proportion in the Spring and in the Fall? A. Yes, sir.
"Q. 28. Do you ever recall receiving any circular asking you not to patronize Treist & Co.? A. Yes, sir. 2764
"Q. 29. Can you tell me approximately the date when you received that circular? A. I could not tell.
"Q. 30. Have you the circular in your possession? A. No, sir, I have not.
"Q. 31. Do you recall what you did with it? A. I had it in my pocket for about six months, and I have no idea what became of it.

6191

2765 "Q. 32. Have you any recollection of its contents? A. I can not give it word for word.

"Q. 33. Do you think you might recognize one if you saw one? A. I think so.

"Q. 34. I will ask you first whether you received more than one? A. No, sir; I only received one.

"Q. 35. I will show you 'Plaintiffs' Exhibit 55' and ask you whether that appears to be a copy of the circular that you received, and I will show you 'Plaintiffs' Exhibit 22' and 'Plaintiffs' Exhibit 30' and ask you whether you
2766 can testify to having received a circular of which any of those is a copy. Before you answer my question, I will ask you what your recollection is as to whether the circular was printed or written? A. It was printed; a printed circular, if I remember right. (After examination of the circulars) I think this comes near to what I have seen, referring to 'Plaintiffs' Exhibit 55.'

"Q. 36. To the best of your recollection, the printed matter on 'Plaintiffs' Exhibit 55' is in substance the same as the printed matter on the circular that you received? A. I think it is; that is, as near as I can remem-
2767 ber.

"Q. 37. Do you recall receiving any written communication in reference to this matter? A. Nothing else except this one; no other communications.

"Q. 39. Do you recall having received any written communication to appear before the Alameda Trades Council? A. Well, I could not state whether in that circular they asked me to appear or not. I cannot remember now. I only received one circular.

"Q. 40. I am asking you now about a written letter, whether or not you received a written letter asking
2768 you to appear before the Alameda Trades Council? A. I don't recollect receiving any written letter.

"Q. 41. Do you recall any one calling on you personally in this connection? A. Not on myself personally; I saw nobody.

"Q. 42. What do you mean by inserting the word 'personally'?"

Mr. Mulholland:

That is objected to as purely hearsay.

Mr. Merritt: 2769

I claim this, your Honor, and the questions which follow simply as showing that this deponent stopped doing business with Triest & Co. on account of the matters reported to him, and that he thereupon sent word to the Alameda Trades Council that he would not go on doing business with Triest & Co.

The Court:

Well, for that purpose it may be received.

Mr. Mulholland:

Save an exception.

Mr. Merritt: 2770

"A. I do know from my manager that a Mr. Kelly called and saw him, but I never saw the man."

I do not claim that as evidence that Mr. Kelly did call.

"Q. 43. Who was your manager at that time? A. Charles S. Hannon.

"Q. 44. Is he still connected with you? A. Yes, sir.

"Q. 45. You heard from your manager at the time that Mr. Kelly made this visit that such a visit had been made? A. Yes, sir.

"Q. 46. I should like to ask you then what relation in 2771
point of time it was that Mr. Kelly made this visit in connection with this circular; did Mr. Kelly's visit come before or after this circular? A. I don't remember now; that I cannot tell. It was just about that time.

"Q. 47. Did Mr. Hannon report the conversation to you that took place between him and Mr. Kelly? A. Yes, sir.

"Q. 48. Did you ever appear before the Alameda Trades Council in connection with this matter? A. I did not, no.

"Q. 49. Do you know whether any one representing 2772
your concern ever appeared before them? A. To the best of my recollection, I had a man named George H. West go and appear there for me.

"Q. 50. He appeared at your instruction? A. At my instruction, yes.

"Q. 51. What was the reason that you instructed him to appear there? A. Well, to tell them that I would not buy any goods from Triest & Co., until this controversy was over.

2773 "Q. 52. What information have you as to whether he carried out your instructions in this particular? A. That I could not tell. I presume he attended to what I told him; that is all.

"Q. 53. Do you know whether or not there were any written papers entered into in this connection? A. Yes, sir; I answered that communication that they sent to me.

"Q. 54. Have you the letter that you sent to them? A. No, sir.

"Q. 55. Have you a copy of it? A. I have no copy of it.

2774 "Q. 56. Do you recall the contents? A. I did not write it myself; I had my manager write it, Mr. Hannon, stating that I would not purchase any goods from Triest & Co. until the controversy was settled.

"Q. 57. Did your concern follow out the statement in that letter? A. I did. I have not bought any goods since that time from Triest.

"Q. 58. I will ask you what relation in point of time the receipt of this circular bears to the date of the last purchase from Triest & Co.? A. That was the time of the stopping of it. I have not bought anything since then.

2775 "Q. 59. You mean to testify that the date of the receipt of that circular was close to the date of the last purchase? A. Yes, sir; I do.

"Q. 60. And you mean to testify that the date when Mr. Hannon informed you of the visit from Mr. Kelly is approximately that date? A. Yes, sir.

"Q. 61. I will ask you why you ceased patronizing Triest & Co.? A. Because I did not want any trouble on my hands with the unions.

"Q. 63. What made you think you would have trouble? A. I was afraid I would be put on the unfair list.

"Q. 64. On what did you base your fear, Mr. Moran?

2776 A. I must have got it from that circular.

"Q. 65. Could you state whether you got it from any other source? A. That I cannot remember.

"Q. 66. Could you state whether you acquired it from your conversation with Mr. Hannon concerning the visit of Mr. Kelly? A. It was from both Mr. Hennelly and the circular that I based my opinion.

"Q. 67. You mean that it is from these two sources that you based your fear concerning which you testified? A. Yes, sir.

"Q. 68. You knew, did you not, that Triest & Co. carried both union and non-union goods at that time? A. I never paid any attention to that at all. Very little buying I did. I simply filled in an order of a dozen or two. My men did the buying; Mr. Hannon and also my hat salesmen did the buying. I am not really the buyer at all, except to go over and fill an order as I wanted a dozen hats or like that, and I would be over in town and place the order; I am not the buyer at all myself. 2777

"Q. 69. State whether or not you gave Mr. Hannon instruction at this time concerning Triest & Co.? A. If I gave him instructions, is that the idea? 2778

"Q. 70. Yes. A. I did, yes.

"Q. 71. What were those instructions? A. Not to buy any goods from Triest & Co.

"Q. 72. Was there any discussion at that time as to whether the goods were union or non-union? A. No, sir; no discussion in regard to that other than they were declared an unfair house, and I would not buy of them.

"Q. 73. Do you recollect whether this circular stated why Triest & Co. were declared an unfair house? A. I think that circular said that they were carrying goods from Loewe & Co., which was an unfair house—not union goods. 2779

"Q. 74. You are referring— A. (Intg.) To that circular that I received.

"Q. 75. You do not pretend to give the exact name of the concern? A. I think it was Loewe & Co.

"Q. 76. Was the name D. E. Loewe & Co.? A. Yes, sir.

"Q. 77. Have your dealings with Triest & Co. been satisfactory or unsatisfactory? A. They have been satisfactory.

"Q. 78. Had you any other reason for discontinuing to patronize them than the reason concerning which you have testified? A. No other reason." 2780

Will you read the cross examination?

Mr. Mulholland:

Just a minute while Mr. Beach looks at it.

Mr. Beach:

"CROSS EXAMINATION.

"Q. You say that as a rule in each year your purchases from Triest & Co. were larger between July 1st and January 1st than they were between January 1st and July 1st. Is that

2781 so? A. I made the assertion they were larger in the fall than they would be in the spring.

"Q. That is the average, is it? A. It is either way.

"Q. You don't so testify just now? A. I think my fall buying is more than the spring buying.

"Q. Tell me how much goods you in point of fact bought from Triest & Co. between July 1st, 1902, and January 1st, 1903, as shown by your books? A. It is right here.

"Q. Figure it up. A. This year will show less in the fall than it would be in the spring.

2782 "Q. I don't care whether it does or not; figure it up. A. That is, for the month of August?

"Q. Beginning July 1st, how much in July, 1902? A. What year?

"Q. 1902, how much did you buy in 1902? A. In July, 1902?

"Q. Yes. A. I bought $48.50.

"Q. How much in August? A. $70.50.

"Q. How much in September? A. I bought nothing—hold on; $85.

"Q. How much in October? A. I make it $121.50.

2783 "Q. How much in November? A. $138.

"Q. How much in December? A. $185.

"Q. Now is it or not true that in the total figures which you gave of your business in 1902 you included the purchases of January, 1902? A. Do you want January?

"Q. No, I want to know if that is included in the total that you gave? A. That is included in that; must be.

"Q. Your business in hats is retail? A. Yes, sir.

"Q. Are many of your customers union men? A. Yes, sir.

"Q. Was not the fact that many of your customers were

2784 union men one reason why you ceased dealing with Triest & Co.? A. Of course, with that notice that I received from the Labor Union I was afraid that I would have a boycott on me, so I stopped dealing with them.

"Q. You were afraid you would lose their trade? A. Yes, sir."

Mr. Merritt:

I think I will read the

2785

RE-DIRECT EXAMINATION OF MR. MORAN.

"Q. Are you familiar in a general way, Mr. Moran, with what a boycott is? A. Yes, sir; I have seen some of them.

"Q. You testified that it was a certain fear that led you to discontinue patronizing Triest & Co. I wanted to find out just what it was that you feared; whether you feared losing trade from union men and others, or whether you feared simply losing trade from union men? A. I was certainly afraid of losing my union trade.

2786

"Q. That doesn't answer my question, and I will ask the stenographer to read it to you again. A. I feared losing trade from union men.

"Q. Was that the extent of your fear? A. Was that the extent of my fear?

"Q. Yes. A. I did not know but what a boycott might be put on me, and I didn't want a boycott put on me.

"Q. I will ask you whether you mean to draw a distinction between losing the union trade and having a boycott put on you? A. I do not know how to make a distinction, because I was afraid I would lose my union trade and have a boycott put on me besides by so doing. If a boycott was put on me I would lose my union trade.

2787

"Q. Have you examined the goods of Triest & Co., their samples or lines since the date of your last purchase? A. I have only gone, as I said before, and bought a dozen hats when I had the order from my manager to purchase them.

"Q. Have you ever changed your instructions to Mr. Hannon? A. No, sir; I have not."

Now I read the deposition of

2788

BENJAMIN COHEN.

"Q. State your name, age, residence and occupation? A. My name is Benjamin Cohen, age 48, residence 3019 Lagoona Street, San Francisco; occupation, merchant.

"Q. As a merchant what do you deal in? A. Hats, furnishing goods and clothing.

"Q. And you are doing business in San Francisco? A. Yes, sir.

2789 "Q. How long have you been doing business here? A. In San Francisco twenty years this coming November.

"Q. And always under your own name? A. Under the name of B. & M. H. Cohen since the fire only.

"Q. And before that in your own name? A. Benjamin Cohen.

"Q. Have you ever dealt with Triest & Co.? A. Yes, sir.

"Q. Did you deal with Triest & Co. from the period of 1903 to 1905? A. I believe in the early part of 1905—"

I don't claim that.

2790 "Q. You did not deal with them in 1902 and 1903? A. Not to the best of my recollection.

"Q. Did you ever receive any circulars asking you not to deal with Triest & Co.? A. I did."

"Q. Have you any of them? A. They were all burned up by the fire; books and everything else.

"Q. Do you recall from whom they purported to come? A. From whom the circulars come?

"Q. Yes. A. To the best of my recollection the United Hatters of North America.

"Q. Have you any recollection as to their contents? 2791 A. Only not to purchase Loewe & Company's merchandise, as it was an unfair house.

"Q. Did the circular state any reason why it was called unfair? A. I don't remember in detail the contents of that circular. I would, were I to see the circular again.

"Q. Did you receive more than one? A. Either two or three.

"Q. I will ask you to examine Plaintiffs' Exhibits 22, 30 and 55" (which are the numbers of the exhibits mentioned in the deposition), "and state whether you ever received any circulars of which those are copies? A. I received this one 2792 (pointing to Exhibit 30), and I received this one (pointing to Exhibit 22), and I received that one (pointing to Exhibit 55), making a total of three. I may have received one more, as they were very much interested in me."

They are these two circulars, Exhibit 66 and 70 in this case, one of them being the circular from the San Francisco Labor Council, and the other being the circular from the California State Federation of Labor. They have both been read to the jury. One is dated July 3, 1903, which is the San Francisco Labor Council one, Exhibit 66; while the other is dated January 30, 1904, Exhibit 70, from the California State

Federation of Labor; but the date on this Exhibit 70 is written 2793
in and was necessarily some time subsequent to the date of printing, and I believe Mr. Knox testified that he dated them as he sent them out from time to time.

"Q. Do you recall whether you were dealing with Triest & Co. at the time you received those circulars? A. Yes, sir; I believe I had already opened an account—no, not at that time. I don't think I was dealing with them. I think to the best of my recollection that I opened up my account in the spring of 1905."

I now read the deposition of

2794

C. J. HEESEMAN.

"Q. State your name, age, residence and occupation? A. My name is C. J. Heeseman, age 37, residence Oakland, California; occupation, merchant.

"Q. How long have you been a merchant in Oakland? A. About ten years.

"Q. Have you always dealt in hats during that period? A. Yes, sir.

"Q. Always under your own name? A. Yes, sir.

"Q. Are you acquainted with Triest & Co.? A. Yes. 2795

"Q. Have you purchased hats from them during any or all of that period? A. During part of that period, yes.

"Q. What was the amount of hats, if any, that you purchased from them in the year 1900? A. I don't know. I will see if I have that. The only records I have of any purchases is from—

"Q. These papers that you are examining, is that a loose leaf ledger? A. Yes, sir.

"Q. And those are kept in the ordinary course of business? A. Yes, sir.

"Q. And contain original entries? A. Yes, sir; the 2796
original entries are here.

"Q. I will ask you whether or not they will show the full amount of the purchases for the years which they purport to cover? A. Yes, sir.

"Q. Then will you give me the amount of business that you transacted with Triest & Co. during the year 1900? A. I only have part of it in 1900. Do you want the exact dollars and cents?

"Q. I would just as soon that you leave out the cents. A. I am not very much of a kookkeeper.

2797 "Q. I will ask you to add up the various purchases appearing on that loose leaf ledger for the year 1900 and give me the sum total of the purchases of that year. A. The only purchase that I have for 1900 is $502.70. That is all I have in the ledger. This is when we commenced to use the loose ledger system.

"Q. What date is that? A. December 13.

"Q. Can you state during just what period of time you made the amount of purchases that you have testified? A. The only purchase for 1900 is December 13, $502. Prior to that time I have no records.

2798 "Q. This purchase of $502. is one bill? A. One bill on December 13.

"Q. I will ask you now to give me the amount of your purchases from Triest & Co. during the year 1901? A. The only records that show here that I have of the purchases of 1901 would be $2893.84. These may not be absolutely correct, as these are the only records that I have or could find.

"Q. Can you testify from those records that your concern must have purchased that amount of goods from Triest & Co. during that year? A. Yes, sir; these are here in black and white.

2799 "Q. I will ask you for the same information in regard to 1902. A. All I can find here is $4579.49.

"Q. I will ask you for the same information concerning 1903? A. 5389.10.

"Q. Now I will ask you to give me 1904, Mr. Heeseman. I want you to give me the amount of business done each month in 1904? A. The only record I have here is January and May.

"Q. What was the business that you did during the month of January with Triest & Co.? A. $114.13.

"Q. You have no records for February, March and April? A. The next month is May.

2800 "Q. What business did you do during the month of May? A. $748.83.

"Q. What other purchases do you find in 1904? A. That is all I have here.

"Q. I will ask you to give me the same information concerning 1905? A. I have no bills in 1905.

"Q. Give me the facts concerning 1906? A. July 13, 1906, six dozen Panama hats, $216.

"Q. Are those straw hats? A. Yes, sir. September 25th, $40.50, three dozen hats.

"Q. What were those goods? A. Black and pearl soft 2801
hats. October 6, 1906, a bill of $131.25.

"Q. What were those? A. That was one dozen boys hats and six dozen and a half stiff hats.

"Q. The boys hats were soft hats, I take it? A. I presume so.

"Q. Does that cover all the business in 1906?. A. All that I have any record of.

"Q. Do you believe that does cover all? A. Yes, sir; I believe it does.

"Q. What can you say in regard to 1907? A. I sup- 2802
pose we bought no hats in 1907. My bookkeeper had no other records but these.

"Q. And in 1908? A. The same thing, I guess.

"Q. I will show you a paper purporting to be signed by C. J. Heeseman, Incorporated, and initialed D. H. M., the letter being dated July 30, 1903, and ask you whether or not you have ever seen that letter? A. Yes, sir; I saw this letter.

"Q. You know who signed that letter? A. Yes, sir.

"Q. Who signed it? A. My partner.

"Q. Will you give me his name, please? A. D. H. McLaughlin.

"Q. Was he your partner on July 30, 1903, the date of 2803
the letter? A. Yes, sir.

"Q. Can you state whether or not the letter was sent out on approximately the date which it bears? A. I could not answer that, no. It was written on that day.

"Q. I have only asked you whether it was sent out approximately on that date? A. I presume so. It was written and went out with all the mail.

"Q. As far as you know, it went out in the ordinary course of business? A. Yes, sir.

"Q. Did you see Plaintiff's Exhibit 72 before it was sent out? A. Yes, sir."

72 is the letter that he is being asked about, and then the 2804
question was as follows:

"Q. Did you see this letter before it was sent out? A. Yes, sir.

"Q. Do you recall how it came to be written. Did you have any conversation with Mr. McLaughlin about it before it was written? A. If I remember rightly, the representative, Mr. Kelly, spoke to Mr. McLaughlin and myself in the store, and I instructed him to write a let-

2792805 ter to Triest & Co. stating the facts in this letter. I saw it after he wrote it and signed it.

"Q. Will you tell me as near as you can how long before the date which this letter bears it was that Mr. Kelly called on you?"

The date of this letter is July 30, 1903.

"A. Mr. Kelly called on us several times prior to this letter.

"Q. Can you give me any information as to what time that was as it relates to this date? A. No, I cannot.

2792806 "Q. Was it a month before that he made his last visit previous to this letter? A. I am not able to state that. It might have been a day before and it might have been a month before.

"Q. You cannot say how shortly this letter followed his visit? A. No, sir.

"Q. Did you see Mr. Kelly more than once at your store? A. Yes, sir.

"Q. How many times, to the best of your recollection? A. Probably twice.

2792807 "Q. Do you recall how near together those two events were? A. No, sir, I do not.

"Q. You have an idea probably whether it was a month or six months? A. Probably two or three weeks apart.

"Q. Can you tell me any of the conversation that took place at the first visit? A. Mr. Kelly informed us that he represented the Hatters Association, and that this concern of Loewe & Co. had been placed on the unfair list, and he asked us to discontinue using non union goods and goods made by this concern, and that Triest & Co. were the selling agents here for them. This is

2802808 about all the conversation that we had.

"Q. Do you remember whether he said anything more? A. I don't remember.

"Q. Was anything said concerning the union goods handled by Triest & Co.? A. No, sir.

"Q. As far as you gleaned from the conversation, Mr. Kelly's desires did not include a request that you cease patronizing the union goods of Triest & Co.? A. It is such a long time ago that I really do not remember

whether he said that or not. It was a request on his part though not to deal with Triest & Co., no doubt. 2809[7]

"Q. To the best of your recollection, it was a request not to deal with them at all? A. Yes, sir.

"Q. What did you reply to Mr. Kelly? You are testifying now concerning the first visit. If you have any definite recollection concerning each visit separately, please state it. I will ask you whether you have any definite recollection concerning each visit separately? A. I have not.

"Q. In the testimony you are giving you could not state whether it came in the first visit or the second visit? A. No, sir. I have just a remembrance of talking to the man; that is all. 2810[8]

"Q. Was Mr. McLaughlin present at both those interviews? A. I think he was present only at one.

"Q. Did Mr. Kelly represent himself to be connected with and as speaking for the United Hatters of North America? A. Yes, sir.

"Q. Now you have testified concerning what Mr. Kelly said. I will ask you what reply you made to him at that time? A. I told him that we would do all we could to help the organized labor. 2811[9]

"Q. Did you tell him what you meant by doing all you could? A. I told him that we had been buying a great number of goods from Triest & Co. and had placed some eastern orders for the next season's merchandise, and after they were in we would do what we could for them if they had not settled their troubles by that time; something of that character.

"Q. Why did you accede to him in this request? A. Rather than have any conversation with the Labor unions, and we being able to buy merchandise where we wanted to buy it, we did not care to be annoyed by these organizations. 2812[0]

"Q. What annoyance did you refer to? A. No particular annoyance than having a request made to us. We thought it was to our interest to accede to their request.

"Q. You mean by that answer to testify that the only annoyance which led you to agree not to patronize Triest & Co. was the annoyance of having people call on you about this matter? A. Yes, sir, and I would like to state further that just at that time we made a change

2813 in our hat department. We got a new manager and we started in to buy our hats more direct from the manufacturers than we had prior to that time, and deal less with the San Francisco jobbing houses, which we do nearly entirely today.

"Q. I will ask you Plaintiff's Exhibit 72 expresses the sentiments which you had attained at that time? A. What do you mean by that?

"Q. I will read to you the second paragraph of Plaintiff's Exhibit 72—"

Mr. Beach (Interrupting):

2814 We object to it unless you read it all.

Mr. Merritt:

I will read the whole letter. I ask to have it marked.

(Said letter marked Plaintiff's Exhibit 84.)

Mr. Merritt:

"C. J. Heeseman, Incorporated.

"Oakland's Most Fashionable Clothier.

"Furnishings, Hats and Shoes.

"1107 to 1113 Washington Street."

"Oakland, California, July 30, 1903.

"Triest & Co., 116 Sansome Street, San Francisco.

2815 "Gentlemen: We are in receipt of a circular letter from the San Francisco Labor Council and have also had a call from Mr. D. P. Kelly representing the United Hatters of North America, in which they declared that your house was unfair for handling hats made by D. E. Loewe & Company of Danbury, Conn.

"We regret exceedingly that we are compelled to discontinue trading with you, as we have been informed by the above parties that it would be detrimental to our business if we continued trading with you while the boycott is on, and until you are again placed on the fair list we

2816 shall not send in any more orders. We would ask you to kindly cancel the orders which you now have on file for us.

"Of course, you know we are in sympathy with organized labor and are making every effort to conform with the regulations set forth by the Labor unions. We feel that they are our friends and we are getting a fair percentage of their patronage.

"Trusting you will take the right view of it and that 2817
the grievances may soon be adjusted so that we can continue our business relations, we remain, Yours truly,

C. J. Heeseman, Inc. D. H. M."

I want to say that this Exhibit 84 is the exhibit referred to as Exhibit 72 in the examination of this deponent.

"Q. I will read to you the second paragraph of Plaintiff's Exhibit 72, which is as follows: 'We regret exceedingly that we are compelled to discontinue trading with you as we have been informed by the above parties 2818
that it would be detrimental to our business if we continued trading with you while the boycott is on, and until you are again placed on the fair list we will not send n any more orders. We would ask you to kindly cancel the orders which you now have on file for us.' I will ask you whether that expresses the sentiments which you entertained at the time the letter was written? A. Yes, sir.

"Q. Were your relations with Triest & Co. satisfactory? A. Yes, sir.

"Q. And was their merchandise satisfactory? A. Yes, sir.

"Q. What was the spring order that you referred to 2819
which came up in your conversation with Mr. Kelly? A. I cannot state whether it was a spring order or a fall order. It was future orders.

"Q. You can state from an examination of your papers what order that was, can you not? A. It must have been the spring order.

"Q. Of what date and what amount? A. I am not able to say.

"Q. What leads you to think it was the spring order? A. Our purchases in 1904 came in May of that year. It must have been merchandise for that season. 2820

"Q. What purchases do you find in the spring of 1904? A. I find $748.83.

"Q. Was that all one order? A. Two orders.

"Q. Of what respective dates? A. May 12th and 13th.

"Q. Can you state now whether or not it was one of those orders? A. I could not state it.

"Q. Can you state whether it was both of those orders? A. I could not.

2821 "Q. You have testified, have you not, that it was the spring order of 1904? A. The buying of the hats are entirely in the hands of the hat manager.

"Q. I will ask you if you can answer that question, because if you have so testified and do not care to have it stand you will probably desire to correct it? A. I do not remember. I could not tell you whether it was this particular bill or not. It is four or five years ago.

"Q. I will ask you whether or not you testified that it was the spring order of 1904? A. Yes, sir, I did testify that it was a spring order, I believe the spring of 1904, ac-

2822 cording to the books here, which show it was in the spring season.

"Q. Do you find any other spring order of 1904 except these two that I am referring to? A. No, sir.

"Q. Then I will ask you to give me your best recollection as to whether it was one or the other of these two orders in May, or both of them? A. They are both so close together that it might have been both, just a day apart.

"Q. You know Mr. P. T. Carroll? A. Yes, sir.

"Q. Was he ever connected with your business? A.

2823 Yes, sir.

"Q. At what time? A. At that time.

"Q. At the time when this took place? A. Yes, sir.

"Q. At the time when Mr. Kelly made these calls? A. Yes, sir.

"Q. What was his connection with your business? A. He was manager of the hat department.

"Q. Did he make the purchase? A. Yes, sir.

"Q. Do you know where Mr. Carroll is now? A. He is either in San Francisco or Oakland. He has a place of business on both sides.

2824 "Q. Have you ever received any circulars or written communications concerning Triest & Co. or D. E. Loewe & Co.? A. I believe I have, yes.

"Q. Do you recall what they were? A. No, sir.

"Q. Have you any of them in your possesion? A. No, sir.

"Q. Do you think you could recognize any of them if you saw them? A. I probably would.

"Q. I will ask you to examine these Exhibits 22, 30 and 55, and state whether any of those are copies of what

you received? A. I don't remember having seen this one (pointing to Exhibit 55). I think I have seen this one (pointing to Exhibit 30)." 2825

Adjourned to tomorrow morning at 10 o'clock.

Wednesday, September 11th, 1912, 10:00 A. M.

Mr. Merritt:

Mr. Brady, will you take the witness stand?

Witness,

WILLIAM J. BRADY,

Sworn by Mr. Carroll:

The Clerk: 2826

Your full name, please? A. William J. Brady.

EXAMINED

By Mr. Merritt:

Q. Mr. Brady, what is your business? A. What is it now?

Q. Yes? A. I work for the National Hat Company.

A. I work for the National Hat Company.

Q. And you have been engaged in the hat business for how many years? A. Why, I just started in there the first of July. I have been out of it about five years. 2827

Q. Been out of the hat business about five years? A. Yes.

Q. You were formerly employed by D. E. Loewe & Co., were you not? A. Yes, sir.

Q. Where do you live? A. Bethel, Connecticut.

Q. When were you employed by D. E. Loewe & Co.? A. I don't just remember the date. I know I was working there at the time they took the men out of there.

Q. You were working there at the time of the strike in 1902? A. Yes, sir.

Q. And do you know how long you had been working there at that time? A. I don't exactly know now; but I had been working there quite a while; a couple of years, I guess. 2828

Q. About two years, you think? A. I think so. Possibly more.

Q. Try and make yourself heard. In what capacity were you employed by D. E. Loewe & Co. in 1902? A. Working as shipping clerk.

2829 Q. And what were your duties as shipping clerk? A. Why, I had to go there to the factory in the morning and put boxes on the hats that they wanted to get out that day, and had the general run on the hats that were going through the shop; shipped them out at night.

Q. That is your duties were to see that the shipments were sent in due time to the various customers? A. Yes, sir.

Q. Can you state whether or not you were familiar with the marking of the cases for shipment? A. I was, yes, sir.

2830 Q. And were you familiar with the names and addresses of customers? A. I was.

Q. And was this your employment during all the time that you were employed by D. E. Loewe & Co.? A. I think the first six months I worked for them I worked as packer in the packing room, then I went to be a shipping clerk.

Q. And you think you worked about a year and a half? A. I think it was about that time, I won't say for sure.

2831 Q. Now you remember the day that the strike took place, do you not? A. I remember the day. I don't remember the date, though I remember the day.

Q. You remember the strike which took place in 1902? A. Yes.

Q. You know about what time of the year that was —it was in the summer of 1902? A. It was in the summer, yes, sir.

Q. What did you do; did you leave with the rest of the men? A. I didn't go out when the rest of them went out. I stayed there, I think three or four hours longer. They wanted me to go in and pack the hats on the bench

2832 that the man had left there. I didn't go in. I went out myself.

Q. Then you went out later in the day that some of the men first left? A. I went out after some of the others had gone. The others had gone after I went.

Q. The others went before you? A. Before I did.

Q. And that was the first day that any of the men left? A. That was the first day that any left that I know of.

Q. Did you attend any meeting? A. I went to one or two of them. 2833

The Court:

Did you belong to the union? A. At that time, no.

Mr. Merritt:

Do you know?

The Court:

Afterwards did you join the union? A. Afterwards I joined the union.

The Court:

Are you a member of the union now? A. Yes, sir.

By Mr. Merritt: 2834

Q. Did you go to any meeting on the day that you left? A. The day I left I don't think—I don't remember going to a meeting that day.

Q. Do you remember that was a Friday? A. I don't remember what day it was. I know it was a morning when they went out.

Q. Did you go to any meeting the day after you left, to the best of your recollection, which would be on a Saturday—you don't recall? A. I can't recall what day it was I went to any meeting.

Q. Where did you attend any meeting? A. I think 2835 it was in a hall on White Street they held a meeting.

Q. White and Ives Street? A. No, I think it was down further near the bridge.

Q. And who was there at the meeting besides yourself? A. Why, it was a meeting of the men that had worked in the shop there.

Q. Did it include all the men as far as you know? A. Yes, unless some had got work somewhere's else. As far as I know they were supposed to be there.

Q. Have you any way to know whether or not that included both union and non-union men who had been 2836 working in the factory? A. I don't know that.

Q. Do you know whether it included both makers and finishers who had been working in the factory? A. Even that I don't know.

Q. Was the meeting addressed by any one? A. I don't remember now. I know there was a number of people talking there I don't recall now who did any talking though.

2837 Q. What was the next employment you took up? A. I was sort of an office boy up there, I guess, to Mr. Moffitt.

Q. You were sort of an office boy to Mr. Moffitt? A. I guess that is what you would call it.

Q. That is Mr. John A. Moffitt? A. Yes, sir.

Q. Was he then President of the United Hatters of North America? A. Yes, sir.

Q. When did you first take up this employment? A. I don't remember the date; it was a few days after I came out of the shop.

2838 Q. Where did you see Mr. Moffitt first? A. I met him in the Groveland Hotel.

Q. Can you state just how many days it was after you came out that you first saw him? A. I can't remember.

Q. Well, place it as nearly as you can; was it three or four days or was it a week, or can't you say? A. It wasn't over a week. I don't know just how many days it was.

Q. It might have been a week for all you can recollect? A. It might have been a week, yes; it wasn't any

2839 more than that.

Q. Did you have any talk with Mr. James P. Maher before you met Mr. Moffitt at the Groveland? A. I don't remember any. I remember I think when I met one I met them all.

Q. What is that? A. I don't remember meeting him before. I think when I met the one I met the other.

Q. How did you happen to go to the Groveland at the time when you saw Mr. Moffitt? A. They sent after me.

Q. Well, you say you were sent for? A. Somebody

2840 told me, I don't remember now who; that they wanted me to go up there; they wanted to see me.

Q. Some man told you but his name you don't recall? A. I don't recall the name, no.

Q. Will you state whether or not it was any of the officers of either the local union or the national union there who told you this? A. I don't think it was. I think it was one of the men.

Q. Then you went to the Groveland; and whom did you meet then? A. Mr. Moffitt was there. I don't recollect whether the other officers were there at that time or not. 2841

Q. You don't recollect whether Mr. Maher was there or Mr. Lawlor was there? A. I don't remember now.

Q. Well, what did Mr. Moffitt say to you? A. Why, he wanted to know if I worked up to Loewe's; I told him yes; he wanted to know what I did up there. I told him, and he said don't get a new place, we will probably have something for you to do around here. 2842

Q. And did he state to you what would be your duties at that time? A. At that time he didn't say, no.

Q. Did he state about what would be your remuneration at that time? A. At that he didn't. No.

Q. Well, did you from that time do as he directed and stay around the hotel? A. I stayed around there, yes.

Q. Well, at some later date he gave you further instructions as to what you should do? A. Yes, sir.

Q. And at some later date he told you how much you would be paid, did he not? A. I don't remember whether he told me or not when I was going to be paid. 2843

Q. As a matter of fact, how much were you paid? A. Paid twelve dollars a week.

Q. Now what instructions did Mr. Moffitt give you as to your employment? A. He told me I had to stay around the office, get the mail, and run any errands they wanted me to run.

Q. What do you mean by staying around the office; did they have an office there at that time? A. Well, I don't believe it was exactly an office; when they were in town they simply stayed there, that is all. 2844

Q. Did you do what he required? A. I did what he required. When they were there if there was any mail came in, why I got it and left it there for him.

Q. Where did you leave it; in the regular hotel box? A. No, I left it in the room.

Q. Did they have a special room there which they used as an office? A. Yes, sir.

Q. Was that a bedroom? A. Yes.

2845 Q. Well, now, what other instructions did Mr. Moffitt give you as to your work? A. Why he told me to try and find out what was going on if I could and let him know; find out all I could and—

Q. Now just state what took place, Mr. Brady, in that connection; just what you mean by "finding out all you could?" A. Why, if I heard about anything that was going on amongst the men or anything, why to just tell him; and told me when I could find out anything about the shop to find it out and let him know about it.

2856 Q. Didn't he state what he wanted you to find out about the shop? A. Yes; he wanted to have me find out where they were shipping their goods, if I could find it out.

Q. And what steps did you take to supply that information? A. I just tried to take a look at the goods as they were going along the street there, and if I caught the address that they were, I told him.

Q. That is you stood on the street and watched a cart load go by and took down the addresses? A. If I could get them that way; yes.

2847 Q. What other methods did you resort to to secure this information? A. Sometimes I used to get on the wagon and ride along with the driver as far as the depot.

The Court:

Depot, did you say?

The Witness:

Freight depot.

Q. That is, you would board the wagon carrying the cases of hats sometimes on this trip from the factory to the railroad station? A. Yes, sir.

2848 Q. And you would ride down to the railroad station? A. Yes, sir.

Q. And you did this to secure the information which Mr. Moffitt asked you to get? A. Yes, sir.

Q. What did you do with the information after you secured it? A. Just put it down on a piece of paper and left it there for him to get.

Q. Left it there for Mr. Moffitt at the hotel? A. Yes, sir.

Q. Did you see any other national officers in connection with this matter during this period of your employment? A. Why, they were there at different times;

I have seen them all at that time; sometimes they would 2848
be all there and sometimes there would be only one there, so I seen them all.

Q. Did you talk to any of them concerning this besides Mr. Moffitt? A. Why, I don't exactly know what you mean?

Q. Did you have any conversation with Mr. Maher concerning this work you were doing? A. Why, yes; I talked with Mr. Maher about the work.

Q. About this work of securing the names and addresses of customers? A. Yes, sir.

Q. And did you have any talk with Mr. Lawlor con- 2850
cerning this same work? A. Yes, sir.

Q. Who paid you your salary? A. It was paid by the local in Danbury.

Q. Who handed it to you? A. Mr. Shalvoy.

Q. Mr. Hugh C. Shalvoy? A. Generally. I don't remember whether he did all the time or not; but he generally handed it to me.

Q. That is, Mr. Hugh C. Shalvoy handed it to you part of the time? A. Yes, sir.

Q. How long did you continue in this employment? A. I don't just remember how long I was there. I know— 2851

Q. Haven't you any recollection? A. I can't remember how long I was there. I was there quite a while.

I left there at the time when the Westchester opened in Yonkers, because I went down there. I don't know just when it was.

Q. In the last trial, according to the record, you testified that you worked in this capacity for about two months? A. Probably it was.

Q. That is true to the best of your recollection? A. That is true when it was, because I know the Westchester opened shortly after that, and I went down there. 2852

Mr. Merritt:

In the last case he testified that he thinks it was in October, 1902, but he wasn't sure.

Q. Did you ever know a man by the name of Wrenn? A. I did, yes.

Q. Did you see anything of him at this time? A. Yes, sir, I saw him around. He was around there.

Q. What was his full name? A. His first name was Michael.

2853 Q. Michael Wrenn; do you know what he was doing at this time? A. Why, after I had been there a while he came in there with me.

Q. In connection with the same kind of work? A. The same work, yes.

Q. Was he employed there when you left? A. He was employed there when I left; yes, sir.

Q. Was he employed there any of the time when you were employed there? A. Part of the time. I don't remember how long.

2854 Q. Can you state of your own knowledge what he did in this connection?

Q. When I say of your own knowledge; that you saw him make reports or heard him make reports to Mr. Moffitt, or you saw him engaged in any of his activities? A. No, I never saw him make any reports to Mr. Moffitt.

Q. Did he state to you what his work was?

Mr. Mulholland:

That is objected to.

Mr. Merritt:

Why, it seems to me clearly admissible.

The Court:

2855 Well, he may answer.

Mr. Mulholland:

Exception.

A. Why, I don't know as he ever told me what he was supposed to do. He said he was going to be there with me, and he was there every day with me; that is about all.

Q. You never went out with him to obtain information concerning the names and addresses of the Loewe customers? A. I never went out with him; no.

Mr. Merritt:

2856 That is all, Mr. Brady.

CROSS EXAMINATION

By Mr. Mulholland:

Q. Where do you live, Mr. Brady? A. Bethel, Conn.

Q. Bethel? A. Yes, sir.

Q. You say that you worked for Mr. Moffitt for about two months? A. I think it was about that time.

Q. Ending some time in October, 1902? A. I am not sure about the month nor the date, but I stopped work for him when the Westchester opened. I went down there to work. 2857

Q. Mr. Brady, can you testify that Mr. Lawlor knew of the kind of work you were doing for Mr. Moffitt, referring epsecially to the searching of addresses upon the boxes? A. Why, I can't say for sure that he knew about it; but he was in the office at the time.

Q. Can you recollect of that matter ever being brought up in the presence of Mr. Lawlor so that he would be charged with notice of it? A. I don't remember it being brought up. 2858

Q. You never talked to him directly about it, did you? A. Not that I can remember.

Q. And isn't it a fact that practically all of your instructions and reports were between yourself and Mr. Moffitt? A. I handed my reports to Mr. Moffitt, yes.

Q. And you received your instructions from Mr. Moffitt, did you not? A. As far as I can remember.

Q. You have named three men, Mr. Shalvoy, Mr. Maher and Mr. Moffitt, do you know whether or not any other persons in Danbury, Bethel or Norwalk knew anything about the nature of your employment by Mr. Moffitt? A. Well, I don't know whether in Bethel or Norwalk knew about it. 2859

Q. You never talked to anyone about it, did you? A. I never talked to anybody —

The Court:

Did you finish your answer?

The Witness:

Why, I was going to say that I talked with nobody from Bethel or Norwalk, that I remember, about it.

Q. What I want to know, Mr. Brady, is this; so far as you can remember, other than the three men that you have named, no persons knew that you were investigating addresses for Mr. Moffitt? A. I can't—I wouldn't say that they knew I was investigating addresses, but they knew I was there in that office. 2860

Q. They knew you were working around the Groveland Hotel Office? A. Yes, sir.

Q. Mr. Brady, was Mr. Loewe shipping very many crates or boxes immediately following this strike of July,

2861 1902? A. I don't just remember now how many he was shipping, but I have seen more go out than went out at that time.

Q. Well, take it along there a few weeks prior to your quitting the employment of Mr. Moffitt, what was the extent of the daily shippings? A. I don't remember how many he was shipping.

Q. Have you now any record of the addresses you handed to Mr. Moffitt? A. No, sir; I haven't.

Q. You kept no copies of them whatsoever? A. No, sir.

2862 Mr. Mulholland:

I think that is all.

RE-DIRECT EXAMINATION

By Mr. Merritt:

Q. You testified, Mr. Brady, that no one in Danbury, to your knowledge, knew of the fact that you were ascertaining this information for Mr. Moffitt, except Mr. Moffitt, Mr. Maher and Mr. Shalvoy? A. Mr. Moffitt, Mr. Maher and Mr. Shalvoy?

2863 Q. Yes, sir? A. When I answered I said there was nobody at Bethel or Norwalk that I knew of that knew it; I didn't say anything about Danbury.

Q. I understood you to testify in your direct examination that you had discussed this matter with both Mr. Maher and Mr. Lawlor; this particular matter of securing this information as to the names and addresses of customers; how do you want your testimony to remain in that connection? A. Why, I testified that these people were around the office. Mr. Moffitt, Mr. Maher, Mr. Lawlor, Mr. Shalvoy, was there at times in the day. I don't

2864 remember saying I never spoke to anybody in Danbury about it. When he asked me I mentioned Bethel and Norwalk.

Q. When you refer to the office you are referring to the room in the Groveland Hotel? A. In the Groveland Hotel.

Q. That is the room—bedroom, which Mr. Moffitt had? A. Yes, sir.

Q. Well, now, what is your testimony as to whether or not this work of ascertaining the addresses and names

of customers was in any way brought to the knowledge or attention of Mr. Maher and Mr. Lawlor? A. All I know, I have been there at times when they were all there. That is all I know. Whether— 2865

Q. Don't you remember that the matter was discussed in the presence of Mr. Maher and Mr. Lawlor?

Mr. Mulholland:

That is objected to as not redirect, and leading. The witness has answered it two or three times.

The Court:

Well, he can state whether he remembers it or not.

Mr. Mulholland: 2866

Exception.

The Witness:

I know they have talked about the case to me. I don't remember of them talking about what I was doing.

Q. You don't remember ever talking about what you were doing in the presence of Mr. Lawlor or Mr. Maher? A. I don't remember; no.

Q. Are you willing to testify that you did not talk about it in their presence, or are you simply willing to testify that you don't remember doing it?

The Court: 2867

Do you remember whether you did or did not talk about it? A. Whether I talked about the case with these men?

Mr. Merritt:

Yes? A. No; all I ever did was just simply had that little slip of names of customers and handed in to them; that is all the information I ever got from them, and I never gave them any other information that I know of.

Q. Did you some times give them in in the presence of Mr. Maher and Mr. Lawlor? A. I can't say for sure now whether I did or not. I handed it in that way; 2868 sometimes Mr. Lawlor wouldn't be there or Mr. Moffitt wouldn't be there. Somebody else would be there. Anybody who happened to come along.

Q. When you say you handed it in, you handed it in to some person? A. I just laid it there on the table in the room.

Q. Mr. Brady, can you testify whether any other Danbury people knew of the work you were doing, to your knowledge?

2868 2869 Witness:

When I went to work there, why all the men knew I was working there. That is all I know about it. I don't know whether they knew what I was doing or not. I never told anybody what I was doing. I don't recollect anybody asking me.

RE-CROSS EXAMINATION

By Mr. Mulholland:

2869 2870 Q. Everybody knew you were down at that office, didn't they? A. They knew I was there, yes.

Q. And knew that you were running those errands? A. I can't say that they knew what I was doing there. They knew I was there.

Mr. Mulholland:

That is all.

(Witness excused.)

Witness

HARVEY G. WARD,

Sworn by Mr. Carroll:

2870 2871 The Clerk:

Your full name, please? A. Harvey G. Ward.

EXAMINED

By Mr. Merritt:

Q. Mr. Ward, what is your business? A. Printing business.

Q. And with what company are you engaged? A. Danbury Printing Co., formerly the Danbury Medical Printing Co.

2871 2872 Q. How long have you been connected with that company? A. Thirteen years.

Q. And in what capacity? A. Vice-president.

Q. In what capacity were you connected with that company in 1902? The same capacity; vice-president.

Q. And will you explain just what your company was doing at that time? What was the nature of its business? A. General printing business.

Q. I show you a paper entitled "Warning; to the members of all labor unions," and attached to it a printed form of an injunction issued in Massachusetts, and ask you

if you recognize that as having seen it before? A. Yes, sir; we printed it. 2873

Q. About how many did you print? A. Why, I think the order for the warnings,—the copy of the advertisement, was 2500, and the injunction, I think the order was more; 4,000.

Q. Who gave you the order? A. The order came, I think, through Mr. Charles H. Merritt.

Q. Is he a citizen of Danbury? A. He is.

Q. Was at the time? A. He was.

Q. Did the order contain any instructions as to the circulation of this? A. Yes; we were to address envelopes and mail these circulars by dropping them in the Danbury Post Office addressed to names taken from the Danbury Directory; designated as Hatters in the Danbury directory. 2874

Q. Did you carry out the order? A. We did.

By Mr. Merritt:

Q. Now I will ask you, Mr. Ward, if this was an order received by you in the ordinary course of business? A. It was.

Q. And was it of the character of business which you have from time to time? A. Yes, sir. 2875

Q. What steps did you take to have this order carried out? A. It was carried out under my order—under my supervision.

Q. Did you see the actual paper printed at that time? A. Yes.

Q. You saw the proof? A. I don't recall whether I saw the proof; I saw the printed job.

Q. And whom did you instruct to have the matter circulated to the names in the Danbury directory which appeared as hatters? A. I didn't get that question.

Q. Whom did you instruct to have them directed? 2876
A. Employees of the company.

The Court:

He says it was done under his supervision.

The Witness:

These employees of the Danbury Printing Company by the addressing and inserting in the envelopes and stamping the envelopes.

2877 The Court:

Carried out instructions as you carried them out in any like case?

The Witness:

Yes, sir.

Mr. Merritt:

I will offer this in evidence as "Plaintiff's Exhibit 86."

Mr. Mulholland:

To which we object as immaterial. I don't see how it is material.

2878 The Court:

Proceed.

Mr. Mulholland:

Exception.

(Marked "Plaintiff's Exhibit 86.")

Mr. Merritt:

"Plaintiff's Exhibit 86": "Warning: To the members of all labor unions: Notice is hereby given that the undersigned will hold each and all the members of all labor unions individually and collectivey responsibe for all damages which we may sustain in our property or business by

2879 reason of the unlawful acts of such labor unions or any of the officers or agents thereof. Dated at Danbury, Conn., August 23rd, 1902. D. E. Loewe & Co.

The foregoing notice is issued in order that all members of unions may be informed as to their individual liability for the unlawful acts of the unions or officers or agents of the unions, whether said acts meet with the approval or disapproval of the individual members of the unions. D. E. Loewe & Co."

Q. I take it, Mr. Ward, that your testimony applies to this warning and to the injunction attached to it? A.

2880 I can't recall whether they were both enclosed in the same envelope or not, but I judge from the charge for postage made on that date that they were.

Mr. Merritt:

Now I will read the injunction which is also part of Exhibit 86:

Mr. Mulholland:

That is objected to.

The Court:

For what purpose is that offered?

Mr. Merritt:
On the question of notice. 2881
The Court:
It may be received for that purpose.
Mr. Mulholland:
Exception.
Q. This is dated August 23rd, 1902; I will ask you whether the printing of this matter and the mailing of it, as you have testified, was on or about the date of August 23rd, 1902? A. It was later than that. I find on reference to our books that the charge was made on September 27th.
Q. Then I will ask you whether or not this work was done on or about September 27th, 1902? A. The work was completed on that date. 2882
Q. It was done some time prior to that date? A. Yes, sir.
Mr. Merritt:
"Commonwealth of Massachusetts, Suffolk, S. S.
Superior Court
"Massachusetts Breweries Company,
The New England Brewing Co.
Rueter & Co. 2883
A. J. Houghton Co.
Alonzo G. VanNostrand
McCormick Brewery Co.
James W. Kenney.
Union Brewing Co.
The Burkhardt Brewing Co.
Puritan Brewing Co.
Waldberg Brewing Co.
Souther Brewing Co.
Boston Beer Co.
Starr Brewing Co. 2884
vs.
Frank H. McCarthy,
James R. Crozier,
John A. Kenney."—
The Court:
Is there any use of reading those names?
Mr. Merritt:
Now, your Honor, I will omit them, if I may.

2885 "All of said Boston, as individuals, the members and officers of the following organizations": And I omit the names of the organizations:

"Temporary Injunction.

"These causes came on to be heard upon the report of the Master, to whom all said causes were sent to be heard, together upon the plaintiff's motion for a temporary injunction; and were argued by counsel, and thereupon upon consideration of, it is ordered and adjudged and decreed that until the further order of this court, the defendants and each of them, and the members of the said organizations or unions, their and each of their committees, members, associates, agents and servants, be and they each are hereby enjoined and restrained:

2886 "1 From injurying, molesting or hindering by any threats or intimidation, or by any kind of coercion, any person now in the employment of either of the plaintiffs from remaining in such employment: and from hindering by any threat or intimidation or any kind of coercion, any person whom they desire to enter the employment of either of the plaintiffs.

2887 "2 From injuring or molesting by any threat or intimidating, or by any kind of coercion, any person, firm or corporation who have been or desire to be the customers of either of the plaintiffs, from continuing to be such customers, or in any way interfering in the business of any of such customers with the view or purpose of preventing or hindering such person, firm or corporation in the sale of beer made by the plaintiffs or either of them.

2888 "3 From publishing, circulating or exhibiting any card or notice like or similar in purport or effect to 'Exhibit No. 1' referred to in the Masters report, and from maintaining such cards or ntoices where the goods of the plaintiffs have been sold; and from representing or causing to be represented to the public or to dealers in beer, that the beer made by the plaintiffs is unfair, and from intimidating or hindering or molesting any person in the purchase of said beer.

By the Court:

Arthur P. Hardy, Assistant Clerk.

August 20th, 1902. A True copy, attest," and the exhibit attached is "Exhibit 1": "Only union beer sold here. This card is issued by the Committee of the Brew-

ery Workmen's Union, Firemen's Union and Boston C. L. U., and remains the property of the above committee." 2889

Q. My associate suggests that you took the list of names to which you instructed these notices to be mailed from the Danbury Directory of 1902? A. Presumably so. I can't recollect positively on that point. No doubt the current directory.

Q. And you sent them to the names therein appearing as hatters? A. Those were our instructions and we followed them.

Mr. Merritt: 2890

That is all.

CROSS EXAMINATION

By Mr. Mulholland:

Q. You say that this order came to you from Mr. Charles Merritt? A. Mr. Charles H. Merritt.

Q. This Mr. Merritt, is he connected with Loewe & Co.? A. Not that I know of, sir.

Q. A hat manufacturer in Danbury? A. He was at one time. 2891

Q. Was he at that time? A. I really couldn't tell you. I don't recall.

Q. Do you know whether or not at that time he was an officer of the Manufacturer's Association of Danbury? A. I couldn't tell you that, sir.

Q. He is the father of our distinguished brother on the other side of the case, is he not? A. So I believe, yes, sir.

Q. Now, Mr. Ward, you say you took the directory and looked up the names of the hatters of Danbury? A. That is the idea. 2892

Q. Did you do this personally? A. I did not.

Q. Your subordinates did that work? A. Yes, sir.

Q. They likewise addressed the envelopes and affixed the stamps and mailed them? A. So I have already stated.

Q. So you have no personal knowledge of any person to whom these circulars were actually sent? A. Not as to the personal recipient in any case.

2893 Q. If I were to ask you as to the various defendants in this case, whether these circulars were mailed to them, you would not know, would you? A. I could not tell you.

Q. Can you give us a little nearer the time when this was done? A. Our charge was made for doing this work on September 27th, 1902.

Q. Now may I ask your custom as to when you make a charge; when you finish the work? A. When the job is delivered.

Q. When you see that entry you think that the job was about completed on that day? A. The job was un-

2894 doubtedly finished that day.

Q. Do your answers refer particularly to the restraining order that has been read? A. We printed it.

Q. From copy furnished by Mr. Merritt? A. From copy furnished us; yes.

Q. And who furnished the copy for the so-called "Warning"? A. I presume it came from Merritt at the same time. My recollection is that it was an advertisement first published in the Danbury News and that is from a copy of that advertisement.

2895 Q. And, so far as you know, did Mr. Loewe have anything to do with that job coming to your office or being mailed and published by you? A. I can't recollect that I ever saw Mr. Loewe personally in regard to the matter.

Mr. Mulholland:

That is all.

RE-DIRECT EXAMINATION

By Mr. Merritt:

2896 Q. Mr. Ward, you read this same notice or warning in the Danbury News? A. That is my recollection; yes, sir.

Q. Prior to the time that you carried out this order? A. Yes, sir.

Q. Was the copy which you used taken from the Danbury News?

Mr. Mulholland:

That is objected to.

The Court:

He may answer it.

Mr. Mulholland: 2897

Save exception.

Witness:

I couldn't positively answer that question.

Q. Well, I will ask you, Mr. Ward, whether your bill—your charge showed that postage was charged for how many copies of this, did you say? A. The charge on our books is for postage on 2152.

Mr. Merritt:

Very well.

RE-CROSS EXAMINATION 2898

By Mr. Mulholland:

Q. Now from that, you are led to believe that 2152 copies were mailed? A. Yes, sir.

Q. Then you mean that there were 2152 hatters in Danbury as shown on the Directory? A. That would be the supposition—in Danbury and Bethel.

Q. Who paid this bill? A. I couldn't testify. I presume Mr. C. H. Merritt, to whom the charge was made on our books. He received the bill.

Mr. Mulholland: 2899

That is all.

(Witness excused.)

WILLIAM E. MIDDLEKAUFF,

Sworn by Mr. Carroll:

The Clerk:

What is your full name? A. William E. Middlekauff.

EXAMINED

By Mr. Merritt: 2900

Q. Where do you live, Mr. Middlekauff? A. Baltimore, Md.

Q. How long have you lived there? A. Lived there all my life.

Q. What is your business? A. At the time, or when—now?

Q. Well, what is your business? A. Manufacturing hats.

2901 Q. What was your business in 1902 and 1903? A. Jobbing hats.

Q. And under what name did you do business? A. W. E. Middlekauff & Co., and later in the year, Selmore Hat Manufacturing Co.

Q. And where was your principal place of business? A. In Baltimore. Locally?

Q. Yes? A. On Hanover Street, Baltimore.

Q. And when did you change the name of your concern from W. E. Middlekauff to the Selmore Hat Co.? A. In May of that year, 1902.

2902 Q. In May, 1902? A. Yes.

Q. Was that change to take place as of the date of May, 1902? A. Yes.

Q. And is the concern, the Selmore Hat Company, still in existence? A. No. No.

Q. How long did that continue in business? A. It continued three years.

Q. Three years after June, 1902? A. Yes, sir.

Q. Was that concern a jobber of hats? A. Yes, sir.

Q. And its predecessor, W. E. Middlekauff, was a jobber of hats? A. Yes, sir.

2903 Q. What territory did it cover in the sale of its hats? A. Baltimore City and Virginia, North and South Carolina, Georgia.

Q. And does that same testimony apply to both of these concerns? A. Yes, sir.

Q. Did both of those concerns do business with D. E. Loewe & Co. of Danbury? A. Yes, sir.

Q. What period of time did your dealings with D. E. Loewe & Co. of Danbury cover down to September, 1903? A. When did it start?

Q. When did it start? A. In, as well as I can rec-

2904 ollect, about 1898.

Q. And was the business continuous down to the time of the commencement of this suit in September, 1903? A. Yes, sir.

Q. And that business was the purchase of hats by this concern from D. E. Loewe & Co.? A. Yes; from them.

Q. What kind of hats was it that you purchased? A. Soft hats.

Q. Soft felt hats? A. Soft felt hats.

Q. Did you, during that period, purchase any soft felt hats from any other concern? A. No, sir. 2905

Q. During that period were you ever called upon by anyone asking you not to do business with D. E. Loewe & Co.? A. Yes, sir.

Q. About what time was that, if you recall? A. Well, in the summer some time, of 1902, I should say.

Q. And do you remember the name of the man who called on you? A. Well, as well as I can recall, it was Mr. Hennelly; that is as near as I can—

Q. That is, according to the best of your recollection, his name was Hennelly? A. Yes, sir. 2906

Q. What did Mr. Hennelly say to you at this time? A. Well, he wished me to discontinue buying the goods from Mr. Loewe.

Q. Is that all of the conversation that you recall? A. That is all I recall; yes, sir.

Q. Did you stop dealing with D. E. Loewe & Co. on his statement? A. No.

Q. I will ask you whether, after that time, your business with D. E. Loewe & Co. continued in the same volume as it had theretofore? A. No, sir.

Q. What change took place? A. I couldn't sell the goods the same as before. 2907

Q. Did any of those customers give you the reasons why they could not buy the goods—yes or no; just answer me yes or no? A. Yes.

Q. And were those reasons given while you were attempting to sell the goods? A. Yes, sir.

Q. Now will you state to me what reasons they gave you for refusing to buy the Loewe goods?

Mr. Mulholland:

Objected to because it is such a broad question. No particular customer; nothing that we can possibly check up on. 2908

The Court:

That you can find out by further inquiry.

Mr. Mulholland:

Exception.

The Court:

This class of evidence is received under the restrictions suggested by the Court and by the counsel for the plaintiffs heretofore. Proceed.

2909 Witness:

When I would go to sell them they would tell me that they were afraid to buy the goods because of the fear of being blacklisted by the local unions. They had been visited by some of them at times.

Q. I will ask you, Mr. Middlekauff, whether in the summer of 1902 you had any difficulty in having your orders filled by D. E. Loewe & Co.? A. Yes, sir.

Q. Did you have any orders placed with D. E. Loewe & Co. in July and August 1902? A. Oh, a great many.

2910 Q. Were those orders filled? A. No, sir; not all of them. Not very many of them.

Q. Well, what became of them? A. Well, the customers couldn't wait for the goods and they cancelled them—cancelled the orders.

Q. You cancelled the order because you had to wait too long to have them filled? A. Had to wait too long to have them filled.

Q. Did you know at that time anything concerning the condition of the Loewe Factory? A. Yes, sir.

2911 Q. You knew there was a strike on? A. Yes, sir, I knew that there was a strike on was the reason I wasn't getting the goods; yes.

Q. Have you any books showing the amount of your purchases from D. E. Loewe & Co.? A. All my books were destroyed in the fire in Baltimore in 1904.

Mr. Merritt:

Well, those figures will be before the Court when the Plaintiff takes the stand. That is all.

CROSS EXAMINATION

2912 By Mr. Beach:

Q. Did your business with Mr. Loewe vary from year to year before 1902? A. It increased every season—every year.

Q. It varied some years—it increased every year, did you say? A. Yes, sir; from the time I started.

Q. And when was it that you first in 1902 began to have any trouble in getting your orders from Mr. Loewe filled? A. Well, I can probably explain a little in this way. We sell the goods in May and June and July, from

samples; then we send the order to Mr. Loewe to be filled, and the goods might be in the quantity ordered; then they should be shipped in August as a rule—September and October. There are some few shipped in August, practically nothing after that. 2913

Q. Now, Mr. Middlekauff, would these orders come through your concern? A. Oh, yes.

Q. Your customers sent their orders to you and you transmitted them to Mr. Loewe? A. Yes, sir.

Q. That was it? A. Yes, sir.

Q. And I now understand you to say that you had difficulty in getting those orders filled beginning in August, 1902? A. Yes, sir. 2914

Q. When did you first hear of any strike at Mr. Loewe's factory? A. I couldn't say just the date. Probably I saw it first in the papers.

Q. Well, I don't care about when you probably first saw it unless you have some definite recollection on that point—have you? A. Well, nothing more definite than I might say that during August I went to Danbury not knowing the extent of the strike, in the hopes of getting some goods through somehow.

Q. Then these orders that your customers sent to you, and which passed through your hands, were delayed? A. Yes, sir. 2915

Q. And these customers couldn't wait any longer for their goods and cancelled their orders? Did they buy other goods through you or some other manufacturer, or don't you remember? A. They bought elsewhere because I was only handling this kind of goods.

Q. Now how extensive was that cancellation of orders due to Mr. Loewe's inability or failure to fill them? A. Well, I should say there wasn't—there were two-thirds of them cancelled. 2916

Q. Well, you can't give me any general idea of the amount, I suppose, in dollars and cents? A. As to figures, my books were all destroyed.

Q. Then those orders having been cancelled—when were they cancelled, do you know? A. When?

Q. When? A. During August and September the principal cancellations when they were not shipped on time.

2917 Q. And whether or not in September there was still any trouble in regard to Mr. Loewe filling his orders? A. In September.

Q. Yes? A. Yes, sir; he hadn't filled any orders promptly or in quantities for quite a while.

Q. After he had begun to fill the orders did you have any difficulty about the quality of the goods that he sent you? A. Well, they probably were not as good as they had been by a long ways, but still we managed to get rid of them, I guess.

2918 Q. Then the fact is, isn't it, that in October, 1902, the goods that Mr. Loewe had sent you were not as good "by a long ways" as you put it, as the goods he had been sending you before that; that is a fact, isn't it? A. They were not as good after?

Q. Yes? A. Well, they were good hats; I thought I could sell them.

Q. Were they or not as good as the hats that he had been sending you? A. No.

Q. There was a difference in the quality? A. Yes, there was some difference.

2919 Q. Did or did not your customers observe that difference in quality? A. I had no difficulty in selling the goods.

Q. That is not the question, if you please? A. Well, they would buy the goods, the quality that was shown, if there hadn't been any trouble.

Q. You don't answer my question. I will leave it right there if that is the way you want to have it. They were not the goods they were before, were they? A. Before the strike—no.

2920 Q. Now you say that this trouble due to the fact that Mr. Loewe couldn't fill his orders, was in the summer of 1902—when was it that Mr. Hennelly came to interview you? A. It was that summer that he was there.

Q. Well, was it before or after you found trouble in the filling of your orders? A. To the best of my recollection it was before. I mean—yes before they had trouble in filling the orders.

The Court:

That is, you had the interview with him before you had the trouble from the failure to fill orders on the part of the plaintiff here? A. Yes, sir.

Q. How definite, Mr. Middlekauff, is your recollection about that now; because I have other means of fixing the date? A. Yes, well, I am associating two things; Mr. Hennelly was there in the summer and that I had trouble with filling orders in the early fall. 2921

Q. Well, your trouble with filling orders began in August, as I understand it? A. Yes, that is what I meant. And he was there prior to that; it was warmer weather.

Q. You think Mr. Hennelly was there before your trouble about orders began? A. I think so.

Q. You think he was there before August, 1902? A. I am afraid I have gotten confused on 1902 and 1903. I can't just get it straight. 2922

Q. Well, if you were told that Mr. Hennelly did come there until along in December, 1902, what would you say? A. Well, I don't think in December 1902.

Q. Your impression is that it was during hot weather during that same year, is it? A. Yes.

Q. I want to know if that is a very definite impression? A. That it was a warm day that he was there; that I am pretty positive of.

Q. Then if he wasn't there during the warm weather of 1902 it must have been 1903 that he was there; is that your impression? A. Yes. 2923

Q. Now, one other thing; you have testified here that your customers told you various things. When did they begin to tell you those things? A. Oh, after the strike.

Q. Well, when; what time in the year was it? A. In the fall and after August.

Q. Well then, they began to tell you those things after the trouble in filling your orders began? A. Yes, sir.

Q. Do you remember testifying here, over a year ago, Mr. Middlekauff? A. Yes, sir.

Q. On the former trial in this action? A. Yes, sir.

Q. Do you remember being asked at that time whether you could tell why your purchases from Mr. Loewe were not so large after Mr. Hennelly called on you? A. Remember what I said at that time? 2924

Q. Yes? A. Not—no. I don't remember.

Q. Let me see if I can refresh your recollection; do you remember whether or not at that former trial you were asked by Mr. Merritt this question, after having testified in regard to a visit from Mr. Hennelly "And can you state why your purchases from Mr. Loewe were not so large after that

2925 date," and do you remember answering that question in the following or substantially the following words? "A. My trade wouldn't buy the goods because they didn't have the union label"; do you remember that? A. Yes.

Q. And at that time was or was not your recollection in regard to this matter as clear as it is today? A. Well, I said just the same things today, that they wouldn't buy them.

Q. Just please to confine yourself to my question in regard to your recollection; that was, as a matter of fact, one reason that they gave, wasn't it, that your goods didn't have
2926 the union label in them? A. Yes.

Mr. Beach:

That is all.

Mr. Merritt:

I will read first two questions and go back to the one Mr. Beach read to you, and the one which I will read now. "I will ask you if any of your customers ever said to you prior to September 15th, 1905, why they would not continue to handle these goods without the union label? A. Well, they wouldn't handle them because they didn't have the union label? Q. Well did they give any reasons for this change
2927 of attitude at that time? A. Why they were afraid of being—they had—some of them had been approached and were afraid of being blacklisted in the local union"; do you remember testifying to that effect? A. Yes, sir.

Q. Have you any reason to change that testimony? A. No, sir.

Mr. Merritt:

This is not recross, but it was stricken out matter, and I ask the privilege of putting it to the witness. I will ask you whether or not all orders placed by you and shipped prior to July 1902 were taken in the name of W. E. Middlekauff and
2928 not in the Selmore Hat Company? A. Prior to May?

Q. Prior to July, I am asking? A. Oh, prior to July; no some of them were taken in the Selmore Hat Company prior to July.

Q. Perhaps you didn't understand my question? A. No.

Q. I mean orders which were shipped by you prior to July 1902? A. Oh, they were taken in the name of W. E. Middlekauff.

Q. Then all orders shipped by you prior to July 1902, 2929
which were filled by D. E. Loewe & Co., were taken in the name of W. E. Middlekauff? A. Yes, sir.

Q. My Associate suggests this; were these goods shipped to your customers shipped by you or shipped directly by D. E. Loewe & Co.? A. Shipped directly by D. E. Loewe & Co.

Q Then all goods shipped by them prior to July 1902 to your customers would be in the account of W. E. Middlekauff? A. Yes, sir.

Q. Well, were placed by you in the name of W. E. Mid- 2930
dlekauff? A. Yes, sir.

Q. I take it from your testimony, that you had first difficulty in shipping your orders? A. Yes, sir.

RE-CROSS EXAMINATION

By Mr. Beach:

Q. I want to ask Mr. Middlekauff a question too; whether or not Mr. Middlekauff the volume of your orders for Mr. Loewe's hats was as large between January and July 1902, as it had been between January and July 1901? A. It was larger in 1902. 2931

Q. During that period? A. Yes, sir.

The Court:

He said in his cross examination before that it increased all the while.

Mr. Beach:

Yes, but the total per year.

The Court:

You are splitting it up and taking it by the year.

The Witness:

As I said every season. That means six months perhaps. 2932

The Court:

Anything further from this witness?

Mr. Merritt:

Nothing further, Your Honor.

The Court:

The witness excused. We will take a recess for fifteen minutes.

Recess.

The Court:

You may proceed, Mr. Merritt.

2933 Mr. Merritt:

Mr. Lueders.

Witness,

CARL LUEDERS,

sworn by the Clerk.

The Clerk:

Your full name? A. Carl Lueders, L-u-e-d-e-r-s.

EXAMINED

By Mr. Merritt:

2934 Q. Mr. Lueders you live in Danbury? A. Bethel.

Q. You live in Bethel? A. Yes, sir.

Q. You are employed by D E. Loewe & Co.? A. Yes, sir.

Q. How long have you been in the employ of D. E. Loewe & Co.? A. 1894.

Q. Since 1894? A. Yes, sir.

Q. And you have been employed by them continuously? A. Yes, sir.

2935 Q. In what capacity did you serve from 1894 down to 1902; what was the character of your work from 1894 down to 1902? A. Why I learned the trade—finishing.

Q. And you were a finisher in 1902? A. Well, I was taking care—charge of the finishing room. Had charge of the finishing room.

Q. You were foreman of the finish room? A. 1902.

Q. The work of finishing hats is that part which follows the work of making, isn't it? A. Yes, sir.

Q. It covers the process in the latter part of the work? A. Yes, sir.

Q. Now you remember the strike in July 1902? A. Yes, sir.

2936 Q. You remember the withdrawal of a considerable number of men prior to that date? A. Yes, sir.

Q. And what date? A. Shall I examine my book?

Q. Yes, you may look at your books, if you can't tell it without them. A. (Witness examines books) June 26, 1901.

Q. How many men left at that time? A. Seventeen.

Mr. Merritt:

Your Honor, I want to explain our offer to prove at this point, so that there may be no confusion. In the strike of 1902, which we claim our damage from, which took place

July 25th, 1902—a considerable group of men, we claim, were withdrawn from the factory on two prior dates in 1901, and came back to the factory to work there as soon as they could again, thereby showing their satisfaction with their employment and their preference for that factory. That is all this is being offered for. 2937 5

Q. You better give me the names of those men, Mr. Lueders?

Mr. Mulholland:

That is objected to on the ground of the purpose for which it is offered.

The Court: 2938 6

Well, this may be admissible upon the question of the formation of a conspiracy to interfere with the interstate trade and commerce of the plaintiff's business. It may be received.

Q. Mr. Lueders, will you tell me whether or not those men returned to work at the Loewe factory? A. Yes, seven returned.

Q. Some of them returned? A. Seven.

Q. Was there any other withdrawal of employees from the factory between June 1901 and July 25, 1902, in your department? A. Yes, sir. 2939 7

Q. Well, what did you say Mr. Lueders? A. Yes.

Q. And when was that? A. September 18th.

The Court:

Give the year.

Witness:

1901.

The Court:

How many then? A. Thirteen.

The Court:

Any of those the same as the others? A. One.

By Mr. Merritt: 2940 8

Q. Who was that? A. Deboben.

Q. Fred Deboben? A. Fred Deboben.

Q. This testimony you are giving concerned only the finishing department? A. Yes, sir.

Q. Can you tell me how many men there were in the finishing department on the 24th day of July, 1902? A. (Witness refers to book) Fifty seven piece workers and there is four names on the time book—four weekly hands; sixty one.

2941 Q. Can you tell me how many men there were working in that department one year prior to that, in July 1901? A. Sixty five.

Q. Now tell me what occurred in connection with that department on the 25th of July 1902? A. Why, they was all called out. The men was all called out.

The Court:

State what occurred.

Witness:

Why, in the morning, July 25th, I came upstairs and Mr. Donnelly come to me and told me that they would all have
2942 to attend a meeting—not all—the fair men; what we considered the fair men.

Q. Mr. Donnelly was employed there? A. Yes, sir.

Q. Did he hold any position as foreman or anything of that kind? A. No.

Q. Did you know anything about the matter on the 24th day of July, 1902? A. No.

Q. The first you heard about the men attending any meeting was on July 25th, 1902? A. Friday morning.

Q. Friday morning? A. Yes.

Q. Now what happened after Mr. Donnelly told you
2943 this? A. Why those men all went down and returned about ten o'clock, but not went to work any more.

Q. That is the fair men left? A. Left.

Q. The men you understood to be union men left? A. Left.

Q. About what time was it that they left? A. Seven o'clock.

Q. And they returned about ten? A. Ten.

Q. What happened then when they returned? A. Why they informed me that they wouldn't work any longer.

The Court:

2944 Give any reasons?

Witness:

Yes, they couldn't work any longer.

The Court:

Well, state what they said as near as you can recall it or the substance of what they said.

The Witness:

Well, that the officers was in town and they was all called out; not to work any longer for Mr. Loewe.

Mr. Mulholland:

I think we ought to have who told him this; I don't know who he is talking of. **2945**

Q. Well, if you can, tell who it was? A. Well, it is Mr. Donnelly I can remember.

Q. Was he the only one? A. Well, I think I spoke to Mr. Emil Flosky.

Q. Do you remember any one else? A. It is hard to say. I spoke pretty near with everybody there; at the time very much excited; everybody was very much excited at that time. Of course I may have talked with all of them, but I know particular to Donnelly; I spoke to him. **2946**

Q. Were the men paid off? A. The next day.

Q. About how many men were there that left on this July 25th, concerning whom you have testified. (Witness starts to look at his book.)

The Court:

The question is about how many; can you approximate it?

Witness:

Well, I will say sixteen.

The Court:

Well, count up if you prefer.

The Witness: **2947**

(Examines his book) Eighteen.

Q. And did the other men working in that department continue to work during that day? A. Yes, sir.

Q. And those were the men you supposed to be non-union men? A. Yes, sir.

Q. Now what happened on the following day? A. About ten o'clock they all refused work. Wouldn't take any more work.

The Court:

What do you mean by "all?"

Witness: **2948**

All the rest. Well all the rest that remained after the first eighteen went out.

The Court:

How many?

Witness:

Thirty-six.

Q. Well, let me ask you this question. How many remained in your department? A. Eight.

2949 Q. Can you give me the names of the men who remained? A. Christian Baur, Anton Gerstenmair, Samuel Prokopy, William Genz, Charlie Crofut and myself, Carl Lueders.

Q. You didn't name Schoen, did you? A. Oh, Bernard Schoen and Frederick Schulze.

Q. Did any of these eight men you have named leave after that date? A. No.

Q. Were those men paid off on Saturday? A. Yes, sir.

2950 Q. Were the non-union men who left on Saturday paid off on Saturday? A. No.

Q. Were the union men paid off on Saturday? A. Yes, sir.

Q. That is the eighteen men who left on Friday? A. Yes, sir.

Q. Regular pay day? A. Yes, sir; regular pay day.

Q. And you stated that it was about ten o'clock when the non union men left? A. From ten to twelve.

Q. Leaving that department with eight men in it? The Witness:

Yes, sir.

2951 Q. Did the non union men state to you as to why they left at the time of leaving? A. Yes, some of them did. They was afraid they would be out; couldn't work at hatting any longer.

Mr. Mulholland:

That is objected to. I think we ought to have the conversation. Just what they said.

The Court:

The defendants ask you to give the conversation as near as you can remember.

The Witness:

Every man was afraid—

2952 Q. Well you mean that they stated this to you? A. Yes, sir.

Q. Well, put it in the form of a conversation they stated to you what? A. They stated to me that if we don't go out we all lose—we never be able to work at hatting again.

Q. Well, can you give me the names of any of the men who stated that to you? A. John Smith.

Q. Any others? A. I don't remember any others; John Smith I remember.

Q. Well now tell me what went on in your department or in the factory, as far as you know, after the withdrawal of the men July 26th, the following week? A. The following week we didn't do very much work. Mr. Loewe was waiting and expecting the men to come back. 2953 61

Q. What work did you do? A. I was finishing the next week.

Q. Well, the following week did you finish hats? A. Yes, finished hats.

Q. Who was there to finish the hats, the eight men you have testified about? A. Eight men.

Q. Did all the men remain in the finishing room? A. No. 2954 62

Q. Well, state how the men were distributed and what was done in the effort to manufacture hats? A. Well, Schoen was called down in the pouncing room and Mr. Gerstenmair went down in the packing room, or flanging room.

Q. Does the flanging of hats belong ordinarily to finishing? A. Yes, sir.

Q. And it is one of the branches included in the finishers' union, is it not? A. Yes, sir.

Q. How long was it before you obtained any new employees? A. August 15th. There is one August 8th; the first one. 2955 3

Mr. Mulholland:

One man.

Witness:

Yes, sir.

Q. Now, if you will go right on and tell us the dates when your acquired the new employees and the number of them? A. August 19th one more, 18th one more—on the 18th we had four more I guess. On August 22nd was pay day, had one, nine on the payroll. Nine August 22nd. 2956 4

Q. That is you had nine men in all on the payroll or nine new men? A. Nine new men.

Q. Well now, continue to a later day? A. September 19th, twenty four.

Mr. Mulholland:

On the pay roll?

Witness:

Yes, sir.

Q. That is including those who didn't get out? A. No, that is new men.

2957 Q. Twenty four new men? A. New men.

Q. Give the entire payroll in each case and we will assume that the other men are included? A. Oh, twenty seven.

Q. Twenty seven on this last date you gave? A. On September 18th, 1902.

Q. You mean that covers all the employees in your department on that date? A. The Finishing Department, yes, sir.

Q. Can you give me how many men you had on the first of October, October 3rd? A. Forty five.

2958 Q. You have it here in your old testimony as thirty nine? A. Well, I figured in the weekly hands.

Q. Well, one of those men who remained was not in your immediate room was he; wasn't Mr. Schulze in another room? A. Well, he wasn't a finisher; he was a rounder. Belongs to the finishers.

Q. So you are not including him in those figures you have given? A. No.

Q. How many men did you have on the first of November or October 31st, 1902? A. Fifty one.

2959 Q. How many men did you have on the 12th of December, 1902? A. Fifty one.

Q. Well, this is your time book? A. This is the piece workers.

Q. Kept in the ordinary course of business? A. Yes, sir.

Q. By you? A. Yes, sir.

Q. And the entries were made at the time? A. Yes, sir.

Q. And it is open to examination by defendant's counsel? A. Yes, sir. Of course, I admit probably I make a mistake once in a while here in figuring them over hasty. I

2960 am willing to correct it.

Q. Now give me one more figure as to the number of employees in your department on January 9th, 1903? A. Well, it must be in another book. I ain't got it. I got the work on here, but it is carried over. Just wait a minute.

Q. You haven't the book here covering that? A. Yes, but it isn't carried out. It's carried out in the other book.

Q. Have you any way of computing it here? A. Well, I just read that, January 12th; I read this from January 9th before I figure them up; pay day. It is too much work to fill them up in that time, January 9th.

Q. Well, will you tell me that? A. I just gave it to you. You see the pay starts— 2961

Q. Have you given me the number for January 9th? A. I just gave you the number.

Q. How much? A. Fifty four. I said I think fifty four.

Q. I think the last number you gave me was December 12th, 1902? A. Well that is the new pay starts again December 12th. Do you mean December 12?

Q. I am asking for January 9th, 1903? A. I haven't got that here. January 9th is the last, 1903.

Q. Well, that's what I was asking about, January 9th, 1903? A. Yes, sir. 2962

Q. You say that is fifty four? A. Fifty four.

Q. At the time the men withdrew on the 25th and 26th of July, 1902, were there many hats in your department in a partial state of completion?

Mr. Mulholland:

Objected to as immaterial.

Q. Partly manufactured? A. Yes, sir.

Mr. Mulholland:

Our objection to this line of testimony is that the men had a right to go to work any time they wanted to, and if there was any damage that was caused by reason of the men quitting work whether jointly or singly is not an element of damages in this case. 2963

The Court:

That is all a question of fact for the jury to find upon the evidence as offered.

Mr. Mulholland:

Save the exception to the ruling of the court.

Q. Now in regard to these various new employees whom you secured for your department, or who were secured for your department, were they skilled hatters? A. No, sir.

Q. Were they experienced in the work of finishing hats? A. No. 2964

Q. What steps did you take to instruct them, etc.? A. Well, we tried to learn them.

Q. Did you teach them yourself? A. Yes, sir.

Q. Did the other men who did not leave also teach them? A. Yes, sir.

Q. Did you secure any skilled hatters among those new employees? A. One, I guess. One.

2965 Q. And that one was familiar with the methods with which you finished hats? A. Yes, sir.

Q. In the course of the instruction of those men can you state whether or not any hats were injured or damaged? A. Yes, sir.

Mr. Mulholland:

We take it that our exception goes to all matters of damage caused by reason of the failure of Mr. Loewe to get new employees when the hat men went out on a strike. When I stated my objection a few moments ago I intended to make it cover that class of testimony, and I hope that it will be so

2966 understood.

The Court:

The objection is overruled and exception by defendants.

Q. Mr. Lueders, were these new employees able to make the better grade of hats? A. No.

Mr. Beach:

The same objection and ruling will continue in this line of testimony.

The Court:

Yes.

Q. Well, can you testify, in a general way, as to what the

2967 results were: whether there was any considerable number of hats damaged or not. You can describe better than I can the conditions in your department? A. Well, the work was very unsatisfactory. We had four men there to—the four men that remained. They was Hatters and, of course, they fixed, they repaired a lot of hats that was damaged.

Q. These four men repaired the hats which were damaged by the learners? A. By the learners, and of course the work didn't go through the way it was before; it was very unsatisfactory.

Q. Can you tell me how long it was before you were able to produce the better grade of hats that you had been

2968 producing, with the same degree of excellence?

Mr. Beach:

I object to that in so far as that inability is alleged and claimed to be due to the acts of the defendants. I call Your Honor's attention to this allegation in the complaint (showing the same to the court). That limits it as far as the operations of this conspiracy is concerned to the effect of crippling the operation of plaintiff's factory until the latter part of October, 1902, and I submit that we are not called upon to meet any proof of that kind as an element of damage in this case.

subsequent to October 1902, or the latter part of October, 1902. 2969

The Court:

I will have to study that declaration on that point as to whether they may inquire along that line.

Mr. Beach:

We would have no objection to your Honor's reserving a ruling upon that question until you have an opportunity to examine the complaint. I should expect in the event of your ruling being favorable to us on that point to have the matter explained to the jury.

The Court: 2970

You take the evidence, as I understand it, subject to your objection?

Mr. Beach:

Yes.

Q. Now the question to the witness was, how long did these troubles or this unsatisfactory condition in regard to the hats continue in your department? A. Well, say from a year to a year and a half as well as I remember it. It gradually got better.

Q. And how long was it before you were able to produce the higher grades of hats? A. About two years. 2971

Q. Can you state whether or not in any instances hats which had been completed and ready for shipment had to be returned into the factory for repairs and changes, etc.? A. Mr. Loewe reported several times to me that a lot of hats came back.

Q. Did Mr. Loewe on more than one occasion call your attention to hats of this kind? A. Yes, sir.

Q. Do you remember a conversation with Ed. Donnelly at the time of the strike of July 25th? A. I think it was July 27th on Sunday afternoon.

Q. Mr. Donnelly was one of the men who withdrew on July 25th, 1902? A. Yes, sir. 2972

Q. What did Mr. Donnelly say to you on the 27th of July, 1902?

Mr. Mulholland:

That is objected to. It is a conversation out of the presence of defendants and objected to.

Mr. Merritt:

Your Honor, I will show you that when Mr. Maher came to Danbury to notify Mr. Shalvoy to have the men come down, that Mr. Donnelly was the man chosen to give that notice to

2973 the plaintiff's employees; and the testimony of this witness has shown that Mr. Donnelly did give the notice.

The Court:

Will you read that question as you have it?

(Question read by the stenographer.)

The Court:

Well, as to what?

Mr. Merritt:

Concerning the strike.

The Court:

He may answer.

2974 Mr. Mulholland:

Exception.

A. He asked me what I was going to do. I told him I didn't know what to do. I was not very well at that time and I couldn't work at the bench; and told him I expected to stay in, and he told me that Mr. Loewe couldn't hold out against the unions; Roelofs and all these shops had to give in, so Mr. Loewe didn't have money enough to fight the union. That is about as near as I can explain it. That was the conversation.

Mr. Merritt:

2975 That is all.

CROSS EXAMINATION

By Mr. Mulholland:

Q. Just a minute. Will you tell me the correct pronunciation of your name, please? A. Leaders.

Q. Where were you born Mr. Lueders? A. Germany.

Q. Came to this country fifteen years ago? A. 1892.

Q. Been with Mr. Loewe practically ever since? A.

2976 1893.

Q. Been with Mr. Loewe practically ever since you came to this country? A. 1894, the second of February.

Q. Now you were testifying a little while ago as to what the men told you who went out on strike on Saturday July 26th, 1902. You only named one man with whom you had a conversation. Is that right? A. I had some conversation, but I can't tell the names; there is too many names.

Q. Well, name one more with whom you had a conversation; the fact is you talked with most of them? A. Most of them; yes, sir.

Q. How many were there with whom you talked? A. 2977
Well—

Q. Well, approximately; I don't care, within ten or fifteen? A. Well, ten, fifteen or twenty.

Q. You talked, you say, with maybe twenty of them? A. Well, yes. They wanted to know what I was going to do, and I says I am going to stay.

Q. Did they tell you at that time that they were going to unionize the factory? A. Yes, sir.

Q. And you knew at that time that they were going out to try to unionize the factory? A. Yes, sir.

Q. And they wanted you to go with them, did they not? 2978
A. Nobody directly asked me to go out.

Q. Now as these men came talking to you they told you that they would be back in a few das, didn't they; that this matter would be settled up? A. Yes, sir.

Q. And you expected that these men would all be back in a few days, didn't you? A. Yes, sir.

Q. And you held off on employing any men for quite a long time to wait to see if the old men wouldn't come back? A. It was about pretty near two weeks I guess.

Q. The men told you they would be back in a little while after this was straightened up? A. Well, they didn't 2979
know exactly what to say; said they couldn't come back.

Q. What did they say? They said they were going to unionize the factory, didn't they? A. Yes, sir.

Q. Didn't they tell you after they would unionize the factory they would come right back? A. They would come back.

Q. You expected them, you say, to come back? A. If Mr. Loewe would unionize his factory expected they would come back.

Q. Now have you told us of your efforts to employ men, running along to January 1903, when you had fifty four 2980
men in all? A. Yes, sir.

Q. Did you personally make any effort to acquire new men to take the place of those strikers? A. Mr. Sanford made effort. He went to Newark, N. J. to get men, and several of them were sent up to us.

Q. How many were sent up to you? A. Two.

Q. That is the several that were sent up? A. Yes, sir; I might give the names.

2981 Q. Well, did you make any personal effort to secure new men? A. No, except somebody come to us and ask for work.

Q. Is Mr. Sanford the only one who tried to get men? A. That is all I know.

Q. In about two weeks you did everything in your power, did you not, to get men to take the place of the strikers? A. Learned everything we could.

The Court:

That is you mean the concern?

Mr. Mulholland:

2982 I mean the concern, yes.

The Witness:

The concern.

Q. You couldn't get the men? A. No, sir.

Q. So that up to January you had only secured about fifty four men altogether? A. Yes, sir.

Q. Where did you get those fifty four men; where did they come from? A. Why, they was a lot of Danbury men came up there to learn; they were mostly foreigners.

Q. What nationality? A. Oh, they were Polacks and Slavish and Italians and some Germans, and a few Ameri-

2983 cans.

Q. You say only one of them knew anything about hatting? A. That was the first statement I made.

Q. Out of the fifty four how many of them were skilled hatters when they came to work? A. Well, there wasn't any of them up to the way the benches were before; some of them worked in Newark and Yonkers.

Q. How many of them professed to be skilled hat makers? A. Well, they all claimed to be, but they wasn't.

Q. That is the usual experience, isn't it, in the work? A. Yes.

2984 Q. You say they all claimed to be skilled hatters? A. They claimed to be, but they wasn't.

Q. Can you give the jury any idea, say during the first three months, after the 25th day of July, 1902, what the value of the material which was destroyed by these men would amount to? A. No.

Q. It was considerable was it not? A. I wouldn't undertake it.

Q. Well, it was considerable? A. Yes, sir.

Q. And goods that you shipped away were returned as unsatisfactory, weren't they? A. That is what Mr. Loewe reported to me. 2985

Q. You had quite a number of talks with Mr. Loewe about it, didn't you? A. Yes, I talked to Mr. Loewe about it.

Q. He told you one day that the hats that these men made were not fit for a circus, didn't he? A. Yes, sir.

Q. That condition of affairs, you tell the jury, continued about two years; getting better? A. Getting better gradually, of course.

Q. Did any customers visit your department during the time that this bad work was going through? A. No. 2986

Q. What I mean is, did any customers make objections directly to you? A. No, sir.

Q. You testified a moment ago as to a conversation you had with Mr. Donnelly? A. Yes, sir.

Q. Do you now say he made any mention of Roelofs and Berg? A. Roelofs I said.

Q. And Berg? A. I don't remember.

Q. Well, on your direct examination, did you say both Roelofs and Berg, or don't you recollect? A. Just a little while ago?

Q. Yes, sir? A. I think I said Roelofs and others. 2987

Q. Well, you recollect being a witness in this case when it was tried before in this court? A. Yes, sir.

Q. I will ask you if at that time you were not asked this question: "And what did Mr. Donnelly say," and did you answer "Why he talked about the trouble; he asked me what I was going to do and I said I didn't know what to do. Said I was a sick man and couldn't work at the bench. I didn't know what to do. Said if I left my place somebody else would take it. If I couldn't work at hatting any longer I would have to try something"? A. Yes, sir.

Q. That is true, isn't it? A. Yes, sir. 2988

Q. Then was this question asked you: "Did he say anything to you concerning the unionizing of Mr. Loewe? A. Well talked it over." Is that correct? A. I don't remember that question. I don't remember it.

Q. Well now, do you remember exactly all your conversation with Mr. Donnelly there? A. I couldn't remember word for word. I tell it as near as I can. It is ten years ago.

Q. Yes, of course, it is a long while ago.

2989 Q. When you were a witness on the other trial, you didn't say anything about Roelofs did you, or about Mr. Donnelly having mentioned the word Roelofs?

The Court:

Do you remember whether you did or not?

The Witness:

I don't remember the last trial.

Q. Did any of those men who worked with you prior to July 25th, 1902, have their working clothes in the factory? A. After the 20th?

Q. No, before the 25th?

2990 The Court:

I don't quite understand that question.

Q. What I mean is; did these men change their clothing when they came to your factory to work prior to July 25th, 1902? A. Yes, sir.

Q. I mean change their clothing in the factory from street clothing to working clothing? A. Yes.

Q. How many of those men, if any, left their clothing there when they came out on the 25th or 26th? A. I didn't go in the dressing room; I couldn't tell you.

Q. You didn't go in the dressing room at all? A. No.

2991 Q. You don't know what the condition was there? A. I don't believe they changed their clothes; how many men did I name, eighteen?

Q. Well, will you say that a large number didn't leave their working clothes hanging in the dressing room at the time they went out and told you that they probably would be back in a few days? A. The non-union men didn't take their clothes.

Q. How about the union men? A. They took it the next day.

Q. When they were paid off? A. Yes, sir.

2992 Q. Do you remember them taking their clothing? A. Yes, sir, I saw some of them, but I wouldn't say every one of them.

Q. You wouldn't say that every man took his clothing? A. Some didn't take their clothes at all; left them there. They ain't much good.

Q. You testified that some one told you when they went out that they were afraid that they couldn't get work at hatting unless they went out; who was that? A. John Smith, I believe.

The Court:
That is the one where he said he remembered Smith?
Witness:
Mr. Smith, I remember him.
Q. Is he the only man you remember, having a conversation with reference to that matter? A. Yes, sir.
Q. Where is he now? A. In Danbury.
Q. Do you know where he is working? A. He works in the Delohery, I believe. I wouldn't say for sure.
Mr. Mulholland:
I think that is all.

RE-DIRECT EXAMINATION

By Mr. Merritt:
Q. Well, just another question. I understand that two years after the strike you were not making hats "fit for a circus" so to speak?
The Court:
He said growing better all the time.
A. Better. Oh, not two years. I mean two or three or four months after the strike and probably a little longer. After that the men got more experience.
Mr. Merritt:
That is all.

Afternoon Session, September 11, 1912.

FREDERICK FREDE,

sworn by the clerk.

EXAMINATION

By Mr. Merritt:
Q. You live in Danbury, Mr. Frede? A. Yes, sir.
Q. What is your business? A. I am a hatter.
Q. You are employed by the D. E. Loewe Company? A. Yes, sir.
Q. In what department? A. In the making department.
Q. How long have you worked for D. E. Loewe & Company in the making department? A. I worked there since 1894.

292997 Q. And the making department covers what is called sizing, does it not? A. Yes, sir.

Q. It is the department which covers the first processes in the manufacture of hats? A. Yes, sir, pretty near; that is, forming the hats goes ahead of me.

Q. But all the processes of making come before the processes of finishing? A. Yes, sir.

Q. In 1902, in July, do you recall that a strike took place in the factory of D. E. Loewe & Company? A. Yes, sir.

292998 Q. Were you working in the capacity of an ordinary journeyman at that time? A. Yes, sir.

Q. You did not hold any position as foreman, or anything of that kind? A. No, sir.

Q. Now will you tell what took place on the 25th of July 1902 when the men first left? A. That was the 25th or 24th of July was the last day.

Q. The last day when all the men were there? A. All the men came to work, except a very few men. They all came around with their dinner pails in their hands and went to work.

Q. On the 24th? A. On the 24th.

292999 Q. What happened on the 25th? A. Nobody was there but myself. I staid to work.

Q. When you went to the factory in the morning didn't you find any of the men there? A. Not any. That was on Friday morning.

Q. On Friday morning when you went to the factory there were no men in your department? A. No, sir.

Q. What time did you go there? A. As usual at 7 o'clock in the morning.

293000 Q. Did you hear anything from any of the men concerning the quitting of work?

Q. Yes or no. Did you hear something from some of the men? A. Yes, sir.

Q. When did you hear this? A. That was on the 25th, the time when some of the men went out. I heard them saying they were trying to unionize the factory.

Q. Was it on the 25th that you heard this? A. On the 25th.

Q. I thought you said on the 25th there were no men there? A. No—yes, that is right.

Q. When was it you heard this statement? A. That was the 24th. 3001

Q. On the 24th you heard it? A. The 24th.

Q. Do you recall the name of the man who made this statement to you? A. I don't know exactly who they were, but they told me they were unionizing the factory, as Emil Ihlof told me.

Q. Do you know whether Mr. Ihlof held any position in the factory at that time? A. He was sizing hats, a sizer, the same as myself.

Q. Do you know whether he was a union man? A. Yes, he was. 3002

Q. Do you know whether he held any position in the factory? A. No, sir.

Q. You couldn't state whether or not he was steward? A. He was the steward, yes.

Q. That is, the steward for the union? A. Yes, sir.

Q. What time of day was this that you heard this from Mr. Ihlof? A. This was in the forenoon.

Q. The forenoon of the 24th. A. In the forenoon —this was the 26th that he told me, but on the 24th I heard from others as I asked what was going on. 3003

Q. What time of day was it on the 24th that you had conversation with others? A. That was in the afternoon.

Q. In the afternoon. Do you recall any one whom you talked with? A. No, I cannot say; it is quite awhile ago.

Q. Did you see any of these men who didn't go to work on the 25th at any time on the 25th? A. No men went to work on the 25th.

Q. Did any of them come to the shop on the 25th? A. No, sir. 3004

Q. Did you see any of these men on the 26th? A. No, sir, they came there, but they were paid off.

Q. You didn't see them? A. I have seen them, yes, and this was the time Mr. Ihlof told me.

Q. It was on the 26th that Mr. Ihlof told you they were trying to unionize the factory? A. Yes, this was on Saturday.

Q. Did you have any conversation with any other men as to why they quit work? A. Yes, sir.

23005 Q. With whom did you have this conversation? A. Otto Knickmeyer. He advised me to stop working and go with the biggest crowd. He thought I was a man and I ought to stop working and be with them, the same as Schultz.

Q. Are you sure that none of the men went to work at any time on the 25th? A. Only myself.

Q. Now I call your attention to your testimony—you testified in this case in the former trial, didn't you? A. Yes, sir.

23006 Q. I asked you "What time did they commence work?" You said "They always commenced at 7 o'clock." A. 7 o'clock.

Q. "You think they stopped practically at 8 o'clock? (A.) About 8 o'clock."

Q. What? A. They had to stop at 8 o'clock.

Q. I asked you here further, "Did they all stop?" And you said "No, sir." A. No, sir.

Q. I asked you "Did they all stop?" And you said "No, sir." I asked you "How many?" And you said "Some of the men staid to work." I asked "Can you state in a general way how many stopped work? (A.) I think about two dozen of them, twenty-four men." A. I must state that again.

23007 Q. I am afraid I don't understand. How do you reconcile that? A. These were non-union men that staid to work, and only the union men went away at that time.

Q. I see, as I understand it, you mean to testify that none of the union men came back there on the 25th? A. No, sir, no, sir.

Q. But the non-union men were there at work? A. Not on the 25th. This was the 24th, the last day we had been working toward that trade.

23008 Q. What date do you fix as the first date when the union men left? A. There was nobody there on Friday the 25th of July but myself.

The Court:

Union or non-union?

The Witness:

Not any.

Q. What was the day that you recall, the last day when all the men were at work? A. On Thursday, on the 24th.

Q. On Thursday the 24th was the last day that all **3009**
the men were at work? A. Yes, sir.

Q. Did any of the men leave on the 24th? A. Yes, sir.

Q. What men? A. The fair men, or the union men.

Mr. Merritt:

That explains it. I think it might be explained to the jury that there is no contention but what the fair men left—or the first withdrawal was on the 25th. The witness is simply mistaken as to the dates.

Q. On one day, as I understand your testimony, the **3010**
union men left? A. Yes, sir.

Q. Did any of the non-union men leave on that day? A. Yes, sir, they tried to.

Q. What? A. They have tried to leave it.

Q. How many men did leave on that day approximately? A. About a dozen men.

Q. And the rest of them continued at work? A. Yes, sir, but two or three went away when these men did, but they were told to go back to work.

Q. That is, two or three non-union men went away with the union men, and were told to go back to work? **3011**
A. Yes, sir, and they wouldn't join with them and they told them to go back to work, and they would let them know later on what to do.

Q. Then the following day, as I understand it, the non-union men left? A. Yes, sir, all of them.

Q. And then you were the only man left in your department? A. Yes, sir.

Q. What time of day did the non-union men leave? A. They were told to work up till 4 o'clock, and then stop, on the 24th.

Q. Did they stop at 4 o'clock on that day when they **3012**
left? A. Yes, sir.

Q. Now did any of these men, union or non-union, who left at this time, ever come back to work? A. Not any.

Q. How many hats did you have in your department in the course of manufacture at that time? A. There was about 150 dozen formed, scattered around on the benches.

3013 Q. How many were there sized? A. From the 150 dozen there wasn't any of them sized, they were what they call all green bodies.

Q. Weren't there any others that had been sized, or partly sized? A. Yes, some of them, but not from these 150.

Q. That is, the 150 dozen? A. Green bodies.

Q. They are what you call green bodies? A. Green bodies. They were waiting to be sized.

Q. Did they require immediate attention? A. Yes, they needed practical work on them.

3014 Q. Why is that? A. The bodies are pretty soft, and if they don't get good handling they will be all spoiled; knock-downs; no good.

Q. What would be the result if they were left without any work done on them for awhile? A. They would spoil.

Q. What was done with these hats, or these 150 dozen green bodies? A. They were sized.

Q. Who sized them? A. I staid to work Friday and Saturday and hardened them to keep them from spoiling a little, and the following week there were several

3015 men come to ask for work.

Q. The following week? A. The following week, on Monday.

Q. Now will you tell me on what dates you secured new employees? A. On Monday 4 men came to work, or asked for work.

Q. How many men went to work on Monday? A. 4 men.

Q. When did you next secure some new employees? A. I think the next day I received a couple more. On Tuesday there was only 3 men. One man left.

3016 Q. When did you next secure some men? A. I think I had Tuesday and Wednesday 3 men. Thursday I had 2 more men. If I can refer in my book I can tell. (Refers to book.) That week I didn't receive any more men. I haven't received any more men that week.

Q. How about the following week? A. I received two more men on Tuesday.

Q. What date is that? A. I haven't got any date marked here. It was the Tuesday after the strike. The 29th, I think.

Q. You have testified already as to the week following the strike. Now you are in the following week, are you not? A. The following week after the strike 2 more men came to work, on that Tuesday—two weeks after the strike. 3017 25

Q. Yes? A. That is it.

Q. Did you get more than 2 men that second week after the strike? A. On Wednesday there was 7 men, on Wednesday. On Tursday 7 men.

Q. That is, 7 men were working in that department on Thursday, the second week following the strike? A. Yes, sir. 3018 6

Q. Does that count yourself? A. Yes, sir, that is correct.

Q. Does that count yourself? A. No, sir, without myself.

Q. Now continue? A. On the following Monday again I had 7 men there.

Q. When did you get your next addition to the number of men working? A. On Friday I received one more. He worked half a day, and on Saturday two more.

Q. Have you got the date of that? A. I haven't got no date marked that time. The following Monday then there was 13 men to work. 3019 7

Q. Now you are on the third week. All right. A. The next day 14 men.

Q. That is on Tuesday? A. Yes, sir.

Q. Of the third week? A. Yes, sir. The next day 18 men. The next day 22 men. That was the end of that. I think that is the 4 weeks.

Mr. Mulholland:

What date are you up to now?

The Witness:

4 weeks after the strike, and these men what I have stated they all did day work. They staid by the day. As they didn't know much about hatting Mr. Loewe paid them by the day. 3020 8

Q. Go on. A. Some of these men had a little experience, of course, and they were then put at piece work. I haven't got them down in this book here.

Q. Then you can't tell me now how many men there were? A. Not the exact number.

3021 Q. How many were there employed in your department just before the strike? A. From 40 to 45.

Q. How long was it before you got your 45 men to work there again? A. That lasted several months.

Q. Several months? A. Might be three months.

Q. Can you state whether you had about the same number of employees in July 1901 as you did in July 1902? A. I think so.

Q. Approximately the same? A. About the same, yes.

3022 Q. Now in regard to these new employees which you secured after the strike in July 1902. Were they experienced hatters? A. No, sir.

Q. Were any of them experienced hatters? A. No, sir.

Q. What steps were taken to break them into the business? A. They all had to be learned.

Q. Who taught them? A. I did.

Q. Any one else? A. Yes, a little later on I had somebody with me what teached them a little.

Q. What sort of work did they turn out? A. They made a good many knock-downs.

3023 Q. Knock-downs, you mean imperfect hats? A. Yes, they were made knock-downs, spoiled.

Q. Spoiled hats? A. Yes.

Q. For how long a period of time did this unsatisfactory work continue? A. Several years. It takes a long time before you can make a good hatter, especially in the making department.

Q. How long was it before you got back reasonably in shape? A. Several years.

Q. Your situation, did it improve after 6 months? A. A little.

3024 Q. Did it improve still more after a year? A. Yes, learning more from time to time.

Q. Did you continue to manufacture the same grades of hats during the period following the strike that you did the period before the strike? A. No, sir.

Q. What was the change? A. We couldn't size them.

Q. You couldn't size what? A. Couldn't size the good grade of hats.

Q. That is, these green men couldn't make the good grade of hat? A. No, sir. 3025

Q. When did you again take up the good grade, if you recall? A. That has lasted several years.

Q. Was it several years before you again manufactured any good grade of hats? A. Yes.

Q. Did any one ever attempt to induce you to go out? A. Yes, sir.

Q. Who did? A. The first was on the 26th. Mr. Ihlof, the steward, he advised me to come out and join with them, as they thought they were going to unionize the factory, and this is the only way to get it. 3026

Q. Only way to what? A. To unionize the factory, and they wanted me to come out too.

Q. This is what Mr. Ihlof said to you on the 26th? A. The 26th, yes, sir, and there was two more on that day.

Q. Who else did you see? A. Otto Knickmeyer, he thought I should be with the biggest crowd, I should drop the work and be with them, the same as Schultz, Frederick Schultz, he thought that I should come out with them, as Mr. Loewe couldn't stand the pressure back of him. He advised me to go with the biggest crowd. 3027

Q. Did you ever have any conversation with Mr. James P. Maher? A. Yes, sir.

Q. Where did you see Mr. Maher? A. I had to meet him in his office.

Q. How did you come to meet him? A. He sent somebody to the shop to me to tell me.

Q. Who came to you? A. Charlie Austin.

Q. How long after the strike was it that Mr. Austin came to you? A. It was over a week, nearly 2 weeks, I believe.

Q. What did Mr. Austin say? A. That I should go down to the cigar store to Mr. Maher and speak to him; he wanted to see me. 3028

Q. Do you know whether or not Mr. Maher held any office at that time? A. Yes.

Q. What office was that? A. I think he was president of the Makers' Union.

Q. That is, president of the local Makers' Union? A. Yes, sir.

3029 Q. Well did you go down there to meet Mr. Maher? A. Yes, sir.

Q. Did you see him? A. Yes, sir.

Q. And you met him at Mr. Connelley's cigar store, was it? A. Yes, sir.

Q. What Mr. Connelley is this? A. I think his name is Patrick.

Q. Was it the Patrick Connelley—? A. (Interrupting) I think he was secretary at that time.

Q. Secretary of the Makers' Union? A. Yes, sir.

3030 Q. What did Mr. Maher state to you? A. The first question he gave me is "How much fine did you get on your card as you put in the application?"

Q. What did you reply? A. "$25, back dues and assessments. The bill was sent to me."

Q. That is, $25 fine? A. Yes, sir.

Q. Above the back dues and assessments? A. Yes, sir, and the bill was sent to me.

Q. Have you ever held a card in the union? A. Yes, sir.

Q. Up to what time? A. Up to that time? No, sir.

3031 Q. Up to what time? A. Up to 1895.

Q. You have never held a card since? A. Never since.

Q. Now when you told him what fine had been placed on your card, what did Mr. Maher say? A. Mr. Maher asked me then, "How is things for coming out?"

Q. What did you reply? A. I said "I can't come out and feel good over it."

Q. Did he say anything more? A. Well, he put his hand on my shoulder and opened up the door and pushed me out of the door.

3032 Q. Did he say anything more? A. Yes, sir. As I was out of the door and turned around I said "Mr. Maher, this is the best I can do."

Q. Did he reply? A. Mr. Maher then said "Go along, you God damn scab. You aint fit to live in this free country."

Q. That was all of your conversation with Mr. Maher? A. No, sir. And I turned around then, of course this kind of touched my feeling, and I said "It is a free country, but you don't let it be free." And then he

spoke again, but I didn't understand, as there was a good deal of noise on the sidewalk and so on. This was the last I seen of Mr. Maher. 3033

Q. Did you have any talk with a man named Henry Burnes? A. Yes, sir.

Q. Was he an employee of the factory? A. Yes, sir.

Q. In your department? A. Yes, sir.

Q. When did you have this talk with him? A. Before the strike.

Q. How long before the strike? A. It might have been that spring, I don't know exactly, but I think it was that spring, or so on. 3034

Q. Did you testify, Mr. Frede that no union men came back after they left from your department? A. No, sir.

Q. Did any of them come back? A. No, sir.

Q. None of them did come back? A. No, sir.

Q. Didn't a man named Gildea return? A. Yes, but several weeks after.

Q. He returned several weeks afterwards? A. Yes, sir, as there was a fine put on his card— 3035

CROSS EXAMINATION

By Mr. Mulholland:

Q. I understood you Mr. Frede, that on the 24th day of July 1902 the union men went out, that is, the fair men went out? A. Yes, sir.

Q. And at that time the non-union wanted to go out, but they told them to stay there? A. Yes, sir.

Q. But you also said that 3 or 4 of the non-union men followed the union men out any way? A. Yes, sir.

Q. Went away with them? A. They came back to work. 3036

Q. And then the next day the non-union men went out? A. Yes, sir; nobody showed up.

Q. So that taking the men that went on the 24th and 25th, they cleaned your department out entirely except yourself? A. Yes, sir.

Q. And you were the only man in that entire department left in Mr. Loewe's employ? A. Yes, sir.

3037 Q. Then you were made foreman and began to educate the men who came and took the places of the strikers, did you? A. I was made to be foreman several weeks after.

Q. When did you begin teaching the new men? A. On the following week.

Q. Then you practically had charge of that department at that time, didn't you? A. Yes, sir; but I was not told so.

Q. How? A. I was not told to do it, but I learned it.

Q. These men who came to work didn't know how to make a hat, did they? A. No, sir.

3038 Q. So without being told by Mr. Loewe or anybody else you began to teach these men how to do the work and take the places of the men who went out? A. Yes, sir.

Q. Can you tell the jury approximately how many men you taught during the next six months? A. Quite a few.

Q. 50? A. It might have been.

Q. 60? A. Some of the union men, of course, wouldn't speak to me.

Q. I am not asking you that. I am asking how many men you taught the trade to take the places of the men who went out on strike during the 6 months following the strike? A. You mean learning the hating?

3039 Q. Yes, as nearly as you can state it. I know you can not be absolutely correct about it.? A. Perhaps after 6 weeks—

Q. (Interrupting) 6 months. A. 6 months, yes, 35 men or so, might have been.

Q. Where did these men come from, do you know? A. Some from Danbury, from Yonkers, some I think from Peekskill.

Q. What kind of men were they; first, as to nationality, etc.? A. All kinds; Polaks, Slavonians, Italians, Irish, Germans, Hungarians.

3040 Q. Could they all talk English? A. No, sir.

Q. You took this crowd and out of them tried to make the hats, to take the places of the men who went out? A. Yes, sir; I had to.

Q. You were the only man of all the employees in that department left in the factory? A. Yes, sir.

Q. You spoke of Mr. Maher. Do you know where he is now? A. Not exactly.

Q. He is Congressman Maher, isn't he? A. Yes, sir; that is the one. I heard he was in Danbury a couple of days ago.

Q. You say that some of these men came to you and says to you "Now Fred, you better go out with us," is that true? A. Yes, sir. 304

Q. They said "We will be out only a little while, and Mr. Loewe can't stand out against us," didn't they? A. Yes, sir.

Q. They told you it would probably be only a few days when they would all go right back again? A. That was the expression; yes, sir.

Q. And a great many of them told you that, didn't they? A. Yes, sir.

Q. Isn't it a fact that when you talked to Mr. Maher he told you, "You better go out; it will be a little while, and we will all be back there"? A. No, sir. 304

Q. Who was the other man you talked with; Burnes? A. Henry Burnes.

Q. Was he a union man? A. Yes, sir.

Q. When did you talk to him? A. That was before the strike.

Q. Can you tell me from reference to your book how many men you had in your department January 1st, 1903? A. I may by my book, I will try to. (Refers to book.) I believe I can't. I haven't got any date marked.

Q. See if you can tell me the number of men you had on the 31st day of July, 1903, or the 1st of August, 1903? A. I haven't got no date marked here. The foreman there didn't have the date marked, so I kept on the same date. 304

Q. Can you fix any date in 1903? A. I can tell you the amount of money what was cashed up, what was paid out.

Q. Is there any date that you can fix in 1903 so as to tell us the number of men you had? A. No.

Q. Can't do that? A. I can't do it exactly.

Q. But you say it was several years after the 25th day of July, 1902, before you could use these new men to make first-class hats, that is, the best grade of hats? A. Not the first year. 304

Q. How many years was it before you could make this best grade of hats? A. That took several years.

Q. Do you mean 3 or 4 years? A. Yes, sir.

Q. Now can you tell me the name or style, the way you would identify one of your best hats prior to the strike? as it was called? A. He had a good grade, what we called "Quality 3," or a "Two double X" was still finer.

3045 Q. Now if an order had come to the making department, of which you were foreman, for several hundred dozen of "Quality 3" hats during the first 6 months after this strike, could those men have made them? A. They haven't sized them, no, sir.

Q. If you had had an order for several hundred dozen of the "Two double X" hats, could the men you had there make those hats? A. No, sir.

Q. And isn't it a fact, Mr. Frede, for more than 2 years the men you had there were not able to make such a hat? A. They couldn't make a good hat then.

3046 Q. After two years? A. No, sir. The boss may have had an order for "Two double X," but they were sized by the old hands in stock.

Q. Your men couldn't have made them? A. My men couldn't have made them.

Q. And your men couldn't have made the "Quality 3" for several years? A. No, sir.

Q. You say that you had to work pretty hard to save those green bodies, don't you? A. Yes, sir.

Q. You succeeded in saving them, didn't you? A. Yes, sir.

3047 Q. How many did you say there were? A. 150 dozen.

Q. By your own efforts you kept them from spoiling? A. Yes, sir. I have a green body with me, if it is necessary.

Q. No, we know pretty generally what it is. You were testifying as to the number of hats that were spoiled. What term do you use; knock-downs? A. Knock-downs.

Q. What do you mean by that? A. They couldn't go for a perfect hat.

Q. What do you do; sell them as seconds or thirds?

3048 A. Yes, sir.

Q. Sell them at lower prices? A. Yes, lower prices.

Q. What percentage of hats that your men tried to make during the first year were knock-downs? A. I couldn't say that.

Q. Half of then? A. No.

Q. What? A. Not quite.

Q. 40 per cent, say? A. I believe so, yes.

Q. About 40 per cent? A. Yes, sir.

Q. During all this time you were only working on the cheaper grade of hats, weren't you? A. Yes.

Q. And yet, making a cheaper grade of hats for the first year, about 40 per cent were knock-downs? A. Some where around there; yes, sir. 3049

Q. Well now, take it during the second year, which would be from July, 1903, to July 25, 1904, you were still working on the cheap hats? A. Yes, sir.

Q. Can you tell the jury what percentage of those hats were knock-downs, what degree of perfection the men gained on them? A. They were learned a little, learned from time to time. Of course the man in the finishing room perhaps he knows better what results was made in the plank shop; I couldn't say, I am only what we call a felter, and if the hat has good felt it is all what is necessary, on their part. Of course, knock-downs has to be put out. 3050

Q. You can't tell what percentage of these hats were spoiled in the finishing department? A. No, sir.

Q. You have only been testifying as to the percentage spoiled in the making department? A. Yes.

Q. Now your making department has charge of the forming rooms, doesn't it, where the hats are originally formed? A. No, sir.

Q. Tell me where you first take the hat in the process of manufacture; first from the form? A. From the form.

Q. You take it from the table after it has been taken from the form, and then where do you leave the hat? A. Then the hat goes to the sizing room to be sized in. 3051

Q. Then it goes to the finisher? A. Yes, sir; after the felt is made then it goes to the finisher. Of course it has got to be stiffened, and so on.

Q. And can you tell this jury anything about what percentage of these hats were knock-downs or spoiled after you turned them over to the finishing department? A. No, sir; not exactly. That is out of my power.

Q. Do you know anything about the hats coming back there being rejected by purchasers? A. No, sir. 3052

Q. Mr. Loewe ever talk to you about that? A. No, sir.

Q. He has talked to you about so many hats being spoiled, hasn't he? A. That is about all.

Q. What did he say about it? A. He said there were many hats spoiled, of course.

Q. Made his objection, I suppose? A. He knowed it couldn't be any different; he had to take it.

3053

WILLIAM P. MONTAGUE

sworn by the Clerk.

DIRECT EXAMINATION

By Mr. Merritt:

By the Clerk:

Q. Your full name? A. William P. Montague.

By Mr. Merritt:

3054 Q. Mr. Montague, where do you live? A. New York City.

Q. What was your business in 1903? A. Hat commission business, partly manufacturing and commission sales.

Q. How long had you been engaged in that business in 1903? A. Up to then?

Q. Yes. A. About twenty years.

Q. Under what name did you do business? A. William P. Montague Company.

Q. Where did that concern have its principal place of business? A. New York City.

3055 Q. Did that concern do business with D. E. Loewe & Company? A. Yes, sir.

Q. In the year 1903? A. Yes, sir.

Q. How long prior to that time had you done business with D. E. Loewe & Company? A. Seven or eight years.

(Recess fifteen minutes.)

Q. Mr. Montague, what office did you hold in the company, the William P. Montague Company, in the year 1903? A. I was President and Treasurer.

Q. How long had you held that office? A. Since the corporation was formed.

3056 Q. Was that concern buying goods from D. E. Loewe & Company until the year 1903? A. Yes, sir.

Q. How long had it been a customer of D. E. Loewe & Company? A. Seven or eight years.

Q. In what part of the country did you sell these hats purchased from D. E. Loewe & Company? A. In about every state in the Union.

Q. How did you proceed to do that? A. Through salesmen.

Q. The William P. Montague Company employed salesmen? A. Yes, sir, we had several salesmen travelling for us. 3057

Q. And they travelled— A. (Interrupting.) All over the United States.

Q. All through the United States? A. Yes, sir.

Q. You know about how many salesmen you had employed in 1903? A. Four or five, if I remember correctly.

Q. Were you ever called upon by anyone asking you not to do business with D. E. Loewe & Company? A. Yes, sir.

Q. When was that? A. That was in September, or early in October, 1902.

Q. Where did the visit take place? A. At my office, New York City. 3058

Q. Did you solicit it, or did it come to you unsolicited? A. I certainly did not solicit it, no, sir.

Q. Who called on you? A. There were two men called upon me and handed me their cards. I forget their names, but their cards represented them as being representatives of the United Hatters of America, I believe, or the Hatters Association. I think one of their names was Stelfing, or some such name as that.

Q. Stelpflug? A. Something like that, a very odd name. 3058

Q. Do you know where he came from? A. I think he told me from the Newark district.

Q. Did he state whether he held any office over there? A. I think he was an officer, Secretary, if I am not mistaken of that district, of that association in Newark, Orange.

Q. He was Secretary of the local Union of the United Hatters of Newark? A. Yes, that was my impression.

Q. What did these men state to you? A. They stated that they understood that we were very large customers of D. E. Loewe & Company, and that they proposed to unionize— the American Hatters proposed to unionize the factory of D. E. Loewe & Company. I had already known that there was a strike there, as I had been there, and they stated that they had taken out all the employes— 3060

Q. You say they stated to you? A. Yes, I am telling you what they stated to me, as near as I can recollect, it is some little time ago. But I can give you the purport of it. That they understood that I might have considerable influence with Mr. Loewe, being a large customer of his, and that they would like to have me go to Mr. Loewe and use my influence with

3061 Mr. Loewe to accede to the demands of their union; that it would be very much to my interest to do so, and if I did not do so they would cause me trouble. And I answered them by telling them under no circumstances would I attempt to influence Mr. Loewe whatever. I felt that he was fully competent to manage his own affairs, and that I certainly felt competent to manage mine; and that if they intended to do me any injury, or our business any injury in any way, to go right plumb ahead, it wouldn't make no difference to me whatever, that I should manage my own business in all its details, and I showed them the door, and they never came back.

3062 Q. Did they state what they meant by being to your interest to do as they requested? A. Did they state what?

Q. What they meant by it being to your interest to do as they requested? A. They did.

Q. What did they say? A. They stated that they would see my customers, or see our customers, that is, the William P. Montague Company customers, and advise them not to use our goods, that they were made in a non union factory, and that they were made under very unhealthy and unsanitary conditions, and the goods were not right, that they were scab hats.

3063 Q. Did these remarks concerning unsanitary conditions, etc., relate to any particular factory? A. They related to the D. E. Loewe & Company factory.

Q. Was anything further said by them as to the conditions which prevailed in the D. E. Loewe & Company factory? A. The conditions were all bad, that they couldn't work under such conditions, and they proposed to unionize the factory and have it their way and not Mr. Loewe's.

Q. Can you state whether or not your business with D. E. Loewe & Company at that time had been increasing or decreasing? A. Our business had been growing quite rapidly. 3064 We commenced to do business with Mr. Loewe in 1897, I think, or 1896, along in there, and it gradually grew to quite a nice business in 1900. Then it grew quite rapidly up to 1902, when it was a very satisfactory business to us, and I hope to Mr. Loewe. And at the time of the strike we had—

Q. (Interrupting.) Were you handling any other hats besdes those of D. E. Loewe & Company? A. We were not handlng any other soft hats. They were entirely the product of D. E. Loewe & Company.

Q. What is that? A. Our soft hat business was entirely the product of D. E. Loewe & Company. 3065

Q. Now will you state what effect, if any, the strike at the Loewe factory had upon your business? A. Well, the strike occurred, I believe, the latter part of July. We had at that time several thousand dozen hats in the works, finished and partly finished, mostly partly finished, for delivery from the first of August to the 15th of September; and when the first of August came around a large percentage of these goods were partly made, partly finished, and some only 10% and some perhaps 50%, calling for delivery either in two or three or four weeks. We found that about two thirds of the business was lost, at least one third of that business was lost for that season. We managed to get about one third of the goods made in another factory, but very poorly made. We couldn't organize within a short time the character of goods that we had been getting with D. E. Loewe & Company, and we couldn't transplant that class of goods and dyes into a new factory in the short time, so we had to do the best we could, and we managed to save about one third of it, with Mr. Loewe's effort, we managed to save about one third in another factory. We lost one third. It was too late to do anything further that season. 3066 3067

Q. Were a portion of these orders cancelled? A. Oh yes, oh yes.

Q. Is that what you mean when you say the business was lost? A. I mean to say that the business was broken up, he couldn't deliver them.

Q. The orders were abandoned? A. Abandoned, yes.

Q. About two thirds of the orders were abandoned? A. About one third. Mr. Loewe managed to get out one third through his efforts, we got one third made in another plant. That was the result of that season's transactions. It was too late then to change matters from one factory to another. Of course the customers wouldn't wait, and they bought elsewhere. 3068

Q. Did the character of the hats which D. E. Loewe & Company produced for you subsequent to this time compare favorably or unfavorably with the hats which had been produced prior thereto? A. Well, in some instances they were favorable.

3069 The Court:

The question is, what, in fact, was the condition or grade of those hats that you had of Mr. Loewe after the strike, whether they were as good as they were before.

The Witness:

They were not.

Q. Were these goods shipped directly by D. E. Loewe & Company, or by your concern to your customers? A. They were shipped to us, and by us to the customers.

Q. Will you state whether during the years 1902 and
3070 1903 the class of merchandise produced by D. E. Loewe & Company after the strike was as good as that which had been shipped to you prior to the strike? A. I stated it was not as good.

Q. Did that inferiority continue up to the years 1903 and 1904? A. Yes, sir.

Q. Did you have any conversation with any customers who refused to buy Loewe's hats because they were non union? A. We had a number of customers who spoke to us about it.

Q. Did any of your customers refuse to order the same hats, or to order any goods of D. E. Loewe & Company be-
3071 cause they were non union? A. You mean did any of our customers refuse to order any goods from us because they were made by D. E. Loewe & Company?

Q. Yes. A. Yes, sir.

Q. What were those reasons?

Mr. Mulholland:

That is objected to.

Q. Can you give me the name of the customer? A. I couldn't now, no. It is a long while ago. There were several buyers, several that talked with me in my office regarding the merchandise, and stated that they had been—

3072 The Court:

Well, I hardly think that is quite fair to state what customers said when he can't recall who they were.

Mr. Merritt:

Very well, your Honor. I will turn the witness over to the defendants.

CROSS EXAMINATION

By Mr. Beach:

Q. Mr. Montague, did or did not the inferiority of the goods which you received from Mr. Loewe subsequent to July,

1902, affect your sales with your customers? A. Did or did not the inferiority of the goods affect the sales with our customers? **3073**

Q. Yes. A. It had its affect, yes. That was not mainly the affect, I don't think.

Q. Did it affect your trade very materially? A. Well, there were various circumstances. I wouldn't want to state it was mainly that, or that it was not mainly that.

Q. As far as your testimony is concerned, you don't desire to be understood as saying whether or not the main cause of the falling off of the sales with your customers was the inferior quality of the goods, is that right? A. I think **3074** that I can safely say that a large percentage of it was due to that, yes, sir.

Q. And does that answer of yours cover the entire period from the strike, shortly after the strike for the next two or three years thereafter? A. I think the combination of circumstances continued about two or three years, yes, sir, of which that was a part.

Q. Do you know, Mr. Montague, whether the business which you had with Mr. Loewe in 1902 was or was not greater than the business which you had with Mr. Loewe in the year 1900? A. 1902 or 1900? **3075**

Q. Yes. A. Greater.

Q. Greater in which year? A. 1902, up to the time of the strike; growing business.

Q. Notwithstanding the strike? A. Up to that time. Bear in mind that the strike was on the 24th of July. That is half a year, see? If you want to take it for the fiscal year, or calendar year, I will answer you different either way, I will have to answer different.

Q. I will have to ask you about the calendar year, because those are the only figures that I know anything about. A. I see. Then I will have to answer you that that was for **3076** only a half year, because the fall of the year between July and January, during the period when the greatest damage was done regarding the strike, the effect of the strike, it was an off proposition; whereas the first half of that year was prosperous.

Q. In 1903 I believe those conditions existed the entire year? A. I think so, yes, sir.

3077 Q. Well now, was your business with Mr. Loewe in 1903 bigger than in 1902? A. No, sir, I don't think it was increased at all. I think it was less. As I remember it fell off.

Q. Of course if Mr. Loewe's books show that it increased,— A. (Interrupting.) Then I would have to say that it did increase.

Q. You would have to say you were wrong about that? A. I would indeed.

Q. Would it surprise you very much to learn that? A. It would, yes, sir.

3078 Q. Would it surprise you very much to be told that your business in 1902 and 1903 was bigger than it was in 1900 with Mr. Loewe? A. That our business was larger in 1903 and 1904?

Q. In 1903 than in 1900? A. Well, I think it was larger in 1903 than it was in 1901. My impression is that 1901 and 1902 it began to grow pretty rapidly. I should have to refer to my books though to be sure of that.

Q. As a matter of fact it grew. The business in 1901 was about 50% bigger than in 1900, was it? A. I really can't tell you.

3079 Q. You haven't got a very accurate impression in your mind as to the volume of your business? A. Not at that time; not now, no.

Q. And I suppose your testimony in regard to the percentages that you have been giving here is also a matter of estimate? A. Well, no, only in so far as my memory serves me, it being ten years ago.

Q. You are talking about figures of business that occurred ten years ago, is that it? A. Yes. I couldn't tell you what they were in those two or three years accurately.

Q. And have you refreshed your recollection in any way? A. Not lately, no, sir.

3080 Q. You are testifying here simply and solely from your best recollection as to what happened? A. Not as to figures; I haven't given figures.

Q. You gave percentages? A. Yes, I gave percentages.

Q. You undertook to say that one third of your business was thus and the other third thus and the other third so? A. Yes.

Q. Is that a matter of your own present recollection or is it something that you have refreshed your memory about? A. I refreshed my memory on it. 3081

Q. When? A. Well, recently.

Q. Then perhaps you can tell us what the volume of business was? A. In dollars and cents?

Q. In round numbers? A. I don't think I could.

Q. My associate states that you said the business with Mr. Loewe in 1903 was bigger than it was in 1901. You didn't mean to say that, did you? A. No, sir.

Q. I don't think you did say it. A. I didn't intend to.

Q. I was talking about 1900. A. If you take it for the fiscal year or the calendar year, the answer would apparently be a little misleading. 3082

RE-DIRECT EXAMINATION

By Mr. Merritt:

Q. You stated, Mr. Montague, that in your opinion the falling off in business was due to a combination of circumstances, of which the inferiority of the goods was one? A. Yes, sir. 3083

Q. Will you state what the other circumstances were?

Q. State briefly what the other circumstances were? A. Well, one of the circumstances was the fact that apparently the union men were going around our customers, and—

Mr. Mulholland:

(Interrupting.) That is objected to as hearsay.

The Witness:

And influencing them not to buy hats. It was an influence that we felt every once in a while.

3084

RE-CROSS EXAMINATION

By Mr. Beach:

Q. That you say continued for how long? A. It seemed to me we felt it for three or four years, three years anyway.

Mr. Merritt:

I now read the deposition of

3085

WILLIAM SMITH,

taken at San Francisco.

"Mr. Merritt:

"Q. 1. State your name, age, residence and occupation? A. My name is William Smith; age 43; residence, Oakland, Cal.; occupation merchant.

"Q. 2. How long have you been engaged as a clothing merchant in the city of Oakland? A. For about 17 years.

3086 "Q. 3. Always under your own name? A. No, sir; about 12 years under my own name.

"Q. 4. Have you always carried hats? A. Yes, sir.

"Q. 5. Are you acquainted with the firm of Triest & Co.? A. I am.

"Q. 6. During that period of 12 years, have you ever dealt with them and purchased hats from them? A. Yes, sir.

"Q. 7. I will ask you to tell me, if you can, the amount of your purchases from Triest & Co. during the year 1900? A. I could not tell you.

3087 "Q. 8. Have you any books showing that? A. Not for 1900.

"Q. 9. What has become of those books? A. Thrown away, I guess.

"Q. 10. Have you made a search for them? A. Yes, sir.

"Q. 11. And could not find them? A. No, sir.

"Q. 12. Have you any records of any kind? A. Not for that year.

"Q. 13. No way of refreshing your recollection as to the amount of business done in 1900? A. No, sir.

3088 "Q. 14. I will ask you what the facts are concerning the year 1901? A. Just the same.

"Q. 15. And the year 1902? (Referring to a book.) A. September, 1902, was the first purchase.

"Q. 16. That is the first purchase that you find in your book from Triest & Co.? A. Yes, sir.

"Q. 17. What is the last purchase that you find from Triest & Co. in that book? A. July 16, 1903.

"Q. 18. I will ask you what this book is to which you are referring? A. A ledger.

"Q. 19. A book of original entry? A. Yes, sir.

"Q. 20. Kept in the ordinary course of business? A. Yes, sir. **3089**

"Q. 21. And it purports to contain transactions with Triest & Co. between the two dates concerning which you have testified? A. Yes, sir.

"Q. 22. Can you state whether or not it covers all the transactions with Triest & Co.? A. It should cover all of it during that time.

"Q. 23. I will ask you what is the amount of transactions entered in that book for that period of time? A. $1,499.01.

"Q. 24. That covers the transactions with Triest & **3090** Co. from the 16th day of December, 1902, until the 16th day of July, 1903? A. Yes, sir.

"Q. 25. I will ask you to examine that ledger and state whether the transactions between the two dates concerning which you have testified were mostly weekly or how they seem to appear? A. More weekly than anything else.

"Q. 26. Do you find that you purchased practically every week? A. Practically, yes.

"Q. 27. I will ask you what purchase you made from Triest & Co. subsequent to the month of July, 1903? A. I have no record after July 16th, 1903. That is the last record **3091** I have.

"Q. 28. I will ask you what recollection, if any, you have upon that subject? A. I could not tell; it is five years ago.

"Q. I will ask you what goods you have purchased of Triest & Co. during the year 1908—" That is the way it is here. I can't understand that.

Mr. Beach:

Then you go back to 1907 and 1906.

Mr. Merritt:

Oh yes, that is it. **3092**

"Q. During the year 1908. A. May 12, 1908, the bill is for straw goods.

"Q. What is the entire bill for 1908? A. That is all that was bought.

"Q. That is all of the purchases you made from Triest & Company in the year 1908? A. Yes, sir.

"Q. What information have you concerning purchases made in 1907?

3093 Mr. Beach:

We have our general exception as to the transactions occurring after the commencement of the action.

The Court:

That is some years after.

Mr. Merritt:

Suppose I begin with the year 1906, as a little closer, and work down, and find out what the witness does testify to, and I will leave out 1907 and 1908.

"Q. I will ask you what information you can give me on the subject concerning the year 1906?

3094 Mr. Beach:

Same objection to this same line of testimony as to proof of damage subsequent.

The Court:

That is admitted only as was indicated some time ago by the court, limited to that; no occasion to repeat it I suppose?

Mr. Beach:

No, we will see that the record, if necessary, is consistent.

Mr. Merritt:

"A. I couldn't remember of any transaction with Triest

3095 in 1906.

"Q. To the best of your recollection you purchased no goods from Triest & Company during 1906? A. That is the best of my recollection.

"Q. Can you state what happened in 1905 in this connection? A. No, sir.

"Q. You have no recollection on that subject? A. I don't think we bought anything from them.

"Q. To the best of your recollection you made no purchases during the year 1905? A. No, sir, we did not.

"Q. I will ask you what information of this kind you

3096 can give me concerning 1904? A. I don't remember of any purchases.

"Q. Can you testify the same concerning 1904? A. I cannot remember anything about that. I don't recollect of any purchases that I know of.

"Q. To the best of your knowledge and belief you made no purchases during the year 1904? A. I don't think I made any.

"Q. Now we have come back to the year 1903, and your book from which you have given us figures shows the busi-

ness you have transacted down to July, 1903. Can you give me any information concerning the transactions between July, 1903, and January 1st, 1904? A. No, sir. 3097

"Q. You have not any recollection? A. No recollection and no record.

"Q. Will you examine that ledger and state whether you find entries of any purchases from any people, or payments made to anyone, subsequent to the date of July, 1903? A. I do not understand the question.

"Q. Read the question, Mr. Reporter. (Reporter reads Q. 47.) A. Yes, sir, the book is full of them.

"Q. You find entries covering transactions later than July, 1903? A. Yes, sir. According to this book it shows August 4th, 1904, in one of the transactions. 3098

"Q. I will ask you whether or not that book covers the transactions of your house down to August 4th, 1904? A. Yes, sir.

"Q. Then I will ask you the question that I previously put, whether or not your house purchased any goods from Triest & Co. between July 16, 1903, and the first of January, 1904? A. In this book there is no transaction covering anything further.

"Q. Will you state whether or not the fact that there were no transactions in that book indicates to you that you made no purchases from them during that period of time? A. No transaction after July 16th. 3099

"Q. 53. Now, I will ask you whether or not you recall that your house did or did not patronize the firm of Triest & Co. during the year 1901? A. Yes, sir; we did business with them.

"Q. 54. Can you state whether or not that was a considerable amount of business or very slight patronage? A. I suppose that that business we did between the time I have stated and perhaps the year before may be in the same amount; that is, in proportion, but I don't know how much, as I have not the record. 3100

"Q. 55. Can you state whether you patronized them in the year 1902? A. I did.

"Q. 56. Have you any idea how many years prior to that time you patronized them? A. I guess ever since I was in business.

3101 "Q. 57. Will you state whether their goods were unsatisfactory or satisfactory? A. Well, sometimes they were and sometimes they were not.

"Q. 58. Do you recall any particular cause for dissatisfaction with the goods in 1903? A. No, sir, I cannot recall any.

"Q. 59. As far as you can testify, the goods gave about the same satisfaction during the whole period of time when you patronized Triest & Co.? A. Yes, sir.

"Q. 59. I will ask you then, Mr. Smith, why you discontinued your business in July, 1903? A. Well, I suppose,
3102 it was more the goods being boycotted than anything else.

"Q. 60. You heard then that the goods were being boycotted? A. Yes, sir.

"Q. 61. Where did you get your information from? A. I don't recollect now; I don't know who gave me the first information about it.

"Q. 62. Do you recall having received any circulars in this connection? A. I don't think so.

"Q. 64. You have no recollection of it? A. No recollection of any circulars.

"Q. 65. Do you recall ever being visited by any one
3103 in this connection? A. I think there was.

"Q. 66. Have you any recollection as to the name of the man? A. No, sir.

"Q. 67. Do you know whether he was a local man? A. I think they were local men.

"Q. 68. Would you recall the names of any of the men if you heard them? A. No, sir, I could not remember any one.

"Q. 69. Did you ever meet a gentleman by the name of Kelly? A. I don't know if that was his name or not. I met
3104 a gentleman from the East, but I don't know if that was his name.

"Q. 70. You met a gentleman from the East by the name of Kelly? A. I don't know; I don't remember his name now.

"Q. 71. You simply testify that you did meet a gentleman from the East? A. Yes, sir, but I cannot remember his name.

"Q. 71. And this gentleman from the East you met in connection with this boycott? A. I think he was out in con-

nection with this boycott. I only saw him once and I don't 3105
recollect the incidents. I don't know why.

"Q. 73. Did he come into your store? A. Yes, sir.

"Q. 73. Did he state whom he represented? A. I would not swear to it.

"Q. 74. Could you tell me whether he stated that he represented any hatters' organization? A. I think he did, but I don't want positively to swear to it.

"Q. 75. That is your best recollection? A. That is my best recollection.

"Q. 76. But you cannot give me his name? A. No, sir, I don't remember his name. 3106

"Q. 77. Could you swear that his name was not Hennelly? A. No, sir, I could not. I have a very bad memory for names.

"Q. 78. Have you any recollection on the subject so that you would recognize the name if you heard it? A. No, sir.

"Q. 79. Do you recall receiving any other visits in this connection? A. I believe that is the only time that there was anybody to see me.

"Q. 80. You spoke of local men. I should like to ask you whether you recall receiving any visit from any local 3107
men? A. Yes, sir; I received visits from local men.

"Q. 81. Then you received more than one visit in this connection? A. Yes, sir. I am saying I received one from local men and this gentleman you are talking about.

"Q. 82. How long ago was it? A. I suppose about five years ago.

"Q. 83. On what do you base that supposition? A. I suppose on account of the stopping of the bills now. I base it on this ledger.

"Q. 85. Do you recall any of the conversation that took place between you and the Eastern gentleman? A. No, sir, 3108
I do not.

"Q. 86. Do you remember what he said? A. I cannot recollect what he said.

"Q. 87. Have you not some recollection of what he talked about? A. I don't recollect just exactly what he said, but I suppose we were speaking about the hats.

"Q. 88. What hats? A. About the hatters business. I don't know what he exactly said.

3109 "Q. 89. Do you recall whether he mentioned Triest & Co.? A. No, sir, I don't believe he mentioned any particular names; that is, I cannot remember if he did.

"Q. 90. You testified some time ago that you stopped doing business with Triest & Co. on account of the boycott. I am trying to refresh your recollection as to where you acquired the information concerning the boycott? A. I said some of the local men were there, and also from the men at work in the store.

"Q. 91. Did you have any union men in your employ? A. All union men.

3110 "Q. 92. What union? A. I don't know. The Clerks' Union, I suppose, they have over there.

"Q. 93. Are you a union man? A. I don't think so. I could not belong to a union if I wanted to.

"Q. 94. You testified that you acquired some of this information from these local men? A. Yes, sir.

"Q. 95. I will ask you if you have any recollection of what took place at the time when these local men visited you, and of what was said on that occasion? A. I cannot remember what words we had five years back.

"Q. 96. Do you recall that they mentioned Triest &

3111 Co.? A. They must have done it.

"Q. 87. Do you recall what they said was the object of their visit to you at that time? A. They must have come on account of the boycott.

"Q. 98. Why did they state that they should visit you on account of the boycott? A. I understood they were visiting everybody in Oakland.

"Q. 99. What do you mean by "everybody"? A. All the hat merchants; whoever sold hats.

"Q. 100. What did they state concerning the boycott? A. There you are. I could not recall their words, exactly,

3112 what they did state.

"Q. 101. Did they make any request of you? A. I guess they did.

"Q. 102. What were they, to the best of your recollection? A. To the best of my recollection, they told me that Triest was boycotted.

"Q. 103. Did they make any requests? A. I don't want to swear to it, but they must have made them or I would not very likely have stopped dealing with Triest.

"Q. 104. Now, I will ask you what your attitude was toward these local men that came in? A. I don't understand. 3113

"Q. 105. What did you say to them? A. I told you I don't remember.

"Q. 107. Do you remember whether you told them that you would do as they requested, or whether you told them that you would not do as they requested? A. I don't know as I told them I would or would not. At that time I don't know whether I told them I would or would not.

"Q. 108. You have no recollection of what you said on that point? A. No, sir. 3114

"Q. 109. Did you see any union men in connection with this matter after that date? A. Not that I recollect.

"Q. 110. Do you know how long after those local men visited you that you stopped doing business with Triest & Co.? A. I cannot tell exactly how long it was, no.

"Q. 111. Give it to me as nearly as you can? A. I believe I stopped right after it.

"Q. 112. Did you see any union men in this connection after that date? A. Not that I recollect.

"Q. 113. You testified that you stopped doing business with Triest & Co. on account of the boycott. To what boycott were you referring? A. Against some hats that Triest handled. 3115

"Q. 113. Do you recall what hats those were? A. No, sir, not at that time I did not remember.

"Q. 114. Do you know now? A. Yes, sir, it is Loewe & Co., something like that. I don't exactly know the name now.

"Q. 115. Why should the fact that this boycott was against certain goods handled by Triest & Co. lead you to stop dealing with them? A. They boycotted Triest on that account, of handling those goods, I understand. 3116

"Q. 117. Why should that lead you to stop dealing with them? A. Well, I did not want to handle any boycotted goods.

"Q. 118. Why not? A. Because I think it would hurt my business.

"Q. 119. Can you tell me on what you base that opinion? A. For fear that they would boycott me for handling them.

3117 "Q. 120. What made you fear that? A. It has generally been the custom to do it.

"Q. 120. The custom of whom? A. The unions."

Mr. Beach:

A little short cross examination I will read.

"Q. Your business in hats was a retail business? A. Yes, sir.

"Q. Do you know whether or not among your customers there are many union men? A. There are a good many.

"Q. Will you state whether or not the reason why you ceased dealing with Triest & Co. was in order to keep the trade
3118 of these union customers? A. Yes, sir."

Mr. Merritt:

I will read the testimony of

A. JONAS.

"Q. State your name, age, residence, and occupation? A. My name is A. Jonas, age 53, residence Oakland, California, occupation merchant.

"Q. Do you do business in Oakland? A. I do.

"Q. And sell hats? A. Yes, sir.

3119 "Q. Among other things? A. Yes, sir.

"Q. How long have you been dealing in hats in Oakland? A. 31 or 32 years.

"Q. Have you purchased hats from Triest & Co.? A. Yes, sir, I have.

"Q. Have you always been doing business in your own name during that period? A. A. Jonas and Brothers, A. Jonas, and I am known about by the name of 'The Hub.'

"Q. How long have you purchased hats from Triest & Co.? A. I suppose about 25 years; about.

"Q. Down to the present time? A. Yes, sir, about 4
3120 or 5 years after I started in business I started to trade with them.

"Q. You have been trading with them ever since? A. Yes, sir, until 1906.

"Q. What date in 1906? A. I have got to refer to my books. The last bill bought, I think, was July 1905. I will get that in my book.

"Q. July 5 of what year? A. 1906.

"Q. I will ask you what those books are? A. That is my old ledger used up until 1906 or 1907.

"Q. Is that a book of original entry? A. Original entry, yes, sir. 3121

"Q. Kept in the ordinary course of business? A. Yes, sir.

"Q. Does it contain entries showing all your purchases? A. All the purchases, whoever I traded with at that time, during that period.

"Q. It is a period prior to 1900? A. Yes, sir.

"Q. And down to when? A. 1906. If you will allow me I can give you the exact date. The way it looks here August 15, 1906 is the last item that I bought. From June 1905 down to August 1906. 3122

"Q. I will ask you to examine that book and tell me the amount of your business transactions with Triest & Company during the year 1900? A. It amounted to $550, about. I can give it exactly, if you want it.

"Q. That is close enough. And is that from January to January? A. Yes, sir, January 1st 1906 I owed them $393.77.

"Q. I don't want the items. That is from January 1st 1900 until the 31st of December 1900? A. Yes, sir, whatever appears in that year 1900.

"Q. I will ask you for the business transacted with Triest & Co. during the year 1901? A. $850. 3123

"Q. And if you will give me the same information concerning 1902? A. $700.

"Q. And 1903? A. $600.

"Q. And 1904? A. $40.

"Q. 1905? A. Nothing.

"Q. 1906? A. $425."

I understand the gentlemen object to my going to a later date.

Mr. Beach:

We object to everything after the beginning of this suit. I assume that my objection, under our general understanding, applies to all this testimony. 3124

Mr. Merritt:

I understand so.

"Q. I understand you are testifying as to the amount of hats that you purchased from Triest & Co. during these respective years? A. Yes, sir.

"Q. I will ask you if you recall the fact of the purchase of hats during 1906? A. Yes, sir.

31 3125 "Q. What was the character of the hats you purchased; were they straw goods? A. I think they were canvas goods, if I am not mistaken. If you have got anything specific to call my attention to, do so. There were some straw goods and some canvas goods, if I am not mistaken.

"Q. Were there any felt goods, do you recall? A. I couldn't say. I think the last couple of bills were probably summer goods.

31 3126 "Q. Do you recall any particular reason why you made these purchases from Triest & Co. during the year 1906? A. I don't think I personally bought them; it was my son or one of the boys in the store that bought them. I have a slight recollection, I think, that they were canvas goods, or straw goods, something of that kind.

"Q. Can you give me the date of those purchases? A. May 14, $117.

"Q. Give me from one date to another date that covers those purchases in 1906? A. Between May 14 and July 5, $425.

"Q. That was the year of the fire and the earthquake, was it not? A. Yes, sir, that is right.

31 3127 "Q. Can you state whether or not there was any difficulty in obtaining hats at that time? A. It was very hard to get any class of goods.

"Q. It was difficult to find hats? A. Goods were scarce.

"Q. You testifiy that you did not purchase any hats from Triest & Co. in 1905? A. No, sir.

"Q. You mean you did not purchase any hats in 1905? A. I did not.

"Q. You did not purchase any hats—" I will omit that.

31 3128 "Q. I will now ask you again whether you can give me any reasons why you made this purchase from Triest & Co. in 1906 sandwiched in between two years where you did not patronize them at all; what was the reason? A. Just as I say. In 1906 I didn't do the business myself. I haven't been doing any business since 1905 myself, not a dollar's worth. Speaking as a merchant, knowing that goods were scarce, we had a lot of people that we bought goods of that we never bought of before. In

the first place, we did a big business, we had to have goods, and we bought goods of everybody. 3129

"Q. Then it was due to the big scarcity of hats at that time? A. I presume so.

"Q. You stated that you have not done the buying since 1905? A. Hardly to amount to anything. In the last three years I should almost say I have not done any buying at all.

"Q. Did you do buying until the end of 1905? A. No, sir.

"Q. At what time did you stop doing the buying? A. In the last three years I didn't do any buying at all. 3130 Three or four years previous to that I would buy with a man in the department, and sometimes let him buy himself; and I would buy occasionally myself.

"Q. Do you recall whether you were doing buying in 1904? A. Just as I am saying. To a certain extent I gradually got out of buying. In other words, in the last three years I didn't do any buying at all, and three years previous to that I occasionally did some buying and gradually got out of it. If I did any buying it was with the man in the department, or with my son. Sometimes he would buy a little, and I would buy a little. 3131

"Q. You testified to a purchase from Triest & Company in the year 1904 in the amount of $40.? A. Yes, sir.

"Q. Can you give me the date of that purchase? A. March 14.

"Q. Have you any way to tell me what the merchandise represented by that amount is? A. No, sir.

"Q. Did you make that purchase? A. I couldn't tell you that. That I don't know. It is too far back. I could not tell you.

"Q. You testified to purchasing $600 worth of goods from Triest & Co. in 1903? A. Yes, sir. 3132

"Q. I will ask you to give me the date of the last purchase in 1903? A. In 1903?

"Q. In that year? A. December 23.

"Q. I will ask you to examine your books carefully again concerning your purchases in 1902, and give me the amount of them? A. I have got it right here. $598.30. Here is the book.

3133 "Q. I will ask you again to give me the amount of business you transacted with Triest & Co. during the year 1902? A. About $800.

"Q. Then you desire to correct your former answer where you testified it was $700? A. Yes, sir.

"Q. You find on examination of the books— A. (Interrupting) That I made a mistake. I did not figure right, that is all.

"Q. I will ask you to examine your books and tell me the amount of business you did from July to December 1903? A. From July to December?

3134 "Q. Yes? A. $143.25.

"Q. Then the balance of the $600. Business that you did with Triest & Co. during 1903 you did prior to July of that year? A. Yes, sir.

"Q. I will have to ask you to examine your books again in reference to 1901 and give me the amount of business with Triest & Co. for that year? A. $869.

"Q. You were only testifying to round numbers when you testified to $850? A. Yes, sir, I didn't know that you wanted it exactly.

"Q. Can you tell me who was connected with your 3135 store in the year 1903? A. Yes, sir. My son.

"Q. What is his first name? A. Irving Jonas.

"Q. How long had he been connected with it at that time? A. Well, he has been about 6 years in business. He started in about 1901 in the business.

"Q. Who else is connected with the store? A. No one connected with it. You mean who did buying?

"Q. Yes? A. A man by the name of James Ballard, in the hat department.

"Q. And who else? A. No, one.

"Q. Who else was employed there? A. In 1903?

3136 "Q. Yes? A. Joe Riboli.

"Q. I want the names of them all? A. I am just thinking who was working for me in 1903. I will send you the list, if I can find it—yes, I can find it, because I have got a book and can give you every one that worked there.

"Q. What were the duties of Mr. Riboli? A. He was in the pants department, I think, at that time.

"Q. Do you know whether or not he was a union man? A. I guess he is. He is a union man.

"Q. Do you know whether or not he was at that time? A. Yes, sir. In fact, all the boys in the store had to be union men. **3137**

"Q. What were the duties of your son in 1903?"

Thursday, September 12th, 1912. Morning Session, 10:00 A. M.

The Court:

Proceed.

Mr. Merritt:

Your Honor, I will continue reading from the deposition of Mr. A. Jonas, and on looking at I find that I have omitted inadvertently a few pages, and I will begin at question 100 on page 351, or better, on question 96, page 349. **3138**

Mr. Mulholland:

Where was that taken?

Mr. Merritt:

This was taken in San Francisco. "I will ask you to examine your books for the years 1900, 1901 and 1902, and down to July, 1903, and tell me about how frequently you patronized Triest & Co. during that period? A. During the years 1901, and 1902, and up to July 1903, our business with Triest & Co. was regular. The average would be about once a month; sometimes a little more; some times a little less. Some times it would be two bills a month and some times we would skip a month. **3139**

Q. What month do you find you skipped? A. August.

Q. What year? A. 1901. In 1902 February was skipped.

Q. Those are the only two months you find you skipped during that period? A. Yes, sir.

Q. You say you patronized them—that you purchased from them on an average of once a month; I understand you are not including the small items which appear on your ledger? A. No, probably a mail order or something like that. **3140**

Q. Will you state whether or not you made purchases at practically the same rate during the month of August, 1903? A. There is only one bill here in August 1903—$6.00.

Q. Now I will ask you, Mr. Jonas, why your business with Triest & Co. dropped off in 1904 and the years

3141 following? A. Well, we received at that time some letters from the union—from the hatters' union; I think something to the effect that Triest & Co. were carrying non-union goods; and, of course, the boys in the store more or less, I presume, felt a little lukewarm as regards to Triest & Co. and handling their goods.

Q. And that is the reason, is it? A. I presume that is the reason.

Q. Have you got any documents showing what proportion of your business with Triest & Co. is in felt hats? A. No, I haven't. I can state though that there

3142 was a good deal. In the fall season—they are all fall hats.

Q. Have you got any records showing that? A. No, all the bills are destroyed.

Q. Have you any records showing what proportion was in straw hats? A. No, sir.

Q. Can you state whether your business increased or decreased after you ceased patronizing Triest & Co.? There is no question about it; we were doing about five times as much as we were before—"

Mr. Beach:

"Are."

3143 Mr. Merritt:

"We are doing about five times as much as we were before."

"Q. You are now doing about five times as much as you were before? A. Yes, sir.

Q. Did you ever receive any visits from any one asking you not to patronize Triest & Co.? A. Yes, sir.

Q. Do you recall who the person was? A. He was a tall gentleman—was his name Kelly?

Q. Was he a local man? A. I couldn't tell. At one minute I thought he was a local man and at another min-

3144 ute an eastern man. He represented the Hatters' Union. He was different from other union men. During those days one, or two or three union men came to interview you; but this man was from the Hatters' Union.

Q. Could you testify whether or not his name was Kelly? A. I have a slight recollection that it was. I think it was Kelly, but I wouldn't swear to it.

Q. Who did he say that he represented? A. I am under the impression that it was the Hatters' Union.

Q. What did he say to you? A. I don't know 3145 53
whether he had much to say; only just a couple of days before that we received a notice and he called our attention to the notice which we received from the Hatters' Union.

Q. You did receive a notice from the Hatters' Union? A. Yes, sir; I testified to that.

Q. What did he say concerning this notice? A. I couldn't say now what he said at that time.

Q. Was there any mention made of Triest & Co.? A. Yes, because in the notice Triest & Co. was mentioned, and he spoke about that communication received 3146 54
at that time.

Q. Have you that communication? A. No.

Q. Do you recall the contents of it? A. It was something about their carrying non-union goods and we must beware not to buy any of them, or something of that kind.

Q. For what purpose did he refer to the notice as evidenced by the conversation? A. That he is a representative of the union and he wants to enforce what that letter contained.

Q. What did you reply to him? A. I couldn't say, 3147 5
I suppose I didn't say anything; just simply listened to what he had to say.

Q. Have you any recollection whether you did or did not state that you would comply with his request, or whether you stated that you would not comply with it? A. I certainly did not say that I wouldn't comply with it, that is positive; but what I said to him at that time—whether I would weigh the question or not, I cannot say.

Q. Do you recall this gentleman calling on you after 3148
that? A. I think he was only there once.

Q. Do you recall what relation, in point of time, this visit of this gentleman bears to the date when you ceased doing business with Triest & Co.? A. I think it was about in the year 1903. I think so.

Q. Can you fix it any more definitely than that? A. I think it must have been later than that. I couldn't say exactly of course. It was just about at the time when we ceased buying goods of Triest & Co.; and after his visit we might have bought one or two bills yet, or prob-

3149 ably three bills. It was just within that time though, three or four months. It was within that period as near as I can get to it.

Q. And you stopped doing business shortly after this? A. Yes, sir; that is it.

Q. I will ask you to state whether that was the cause of your stopping doing business? A. I presume that had some influence with the man behind the counter; the man who was to buy the goods to suit him; that is Mr. Ballard."

I will stop there with that deposition.

3150 Mr. Beach:

Now, I want to read some portions of it that were omitted, and begining at question 85—I won't read the whole matter. I will begin at question 85 on page 349. "Will you explain the way you were buying goods at that time? A. We would only buy them from hand to mouth; that is just what we needed—a dozen or two at a time, or three dozen. A drummer would come in and show them and if they both agreed that hats were all right, they would buy them. There wouldn't be any great amount involved.

3151 Q. About how large an amount would you buy at a time? A. About a hundred dollars worth or a hundred and fifty dollars; something of that kind.

Q. You considered that a matter of no importance which house was patronized? A. No, sir.

Q. You did so consider it? A. No, sir; I did not.

Q. You did consider it a matter of importance? A. I say I didn't consider it a matter of importance when you buy a hundred dollars or a hundred and fifty dollars whom they patronized."

3152 And on the same general subject, Question 130: "Did you give Mr. Ballard any instructions concerning the patronage of Triest & Co.? A. No, sir.

Q. None whatsoever? A. None whatsoever.

Q. And you gave no instructions of any kind to any one concerning the patronage of Triest & Co.? A. No, sir.

Q. The matter was left entirely to the discretion of Mr. Ballard? A. Yes, sir.

Q. I will ask you whether or not Mr. Ballard conferred with you as to who he should patronize or as to what hats he should purchase? A. He didn't mention any firm exactly.

Drummers would come in to sell goods, and if he liked anything he would come to me and say 'Mr. Jonas, I think this is a hat we can sell' and I would look at them and I would say 'Do you think they are all right.' He would say 'yes.' If I liked it I would say 'OK go ahead and buy it.' 3153

Q. Did you OK all orders before buying them? A. Some times he would consult with me and some times with my son."

Mr. Davenport:

At this time, Your Honor, I desire to read from the Secretary's report of the Convention of 1903, on page 54, where is reporting upon the membership of the different unions, as follows: "To more forcibly bring to the attention of delegates the remarkable growth in the membership during the past seven years I have prepared the following table showing the voting strength of the affiliated unions of the American Federation of Labor for the years 1896 up to and including 1903." 3154

That would be September 30th, 1903.

"This table is based upon the average membership reported or per capita tax paid to the American Federation of Labor by the affiliated organization." And it will be remembered that in the constitution it is provided that one vote is cast for every hundred members. 3155

Now on page 54: "Clerks' International Protective Association, Retail, 1901, two hundred and fifty."

That would be twenty-five thousand membership.

"1902, three hundred;" the voting strength of thirty thousand. "And in 1903 five hundred," or fifty thousand members of that organization.

And I would recall to memory that the secretary of this organization was shown to be Max Morris, who is also shown to be, or was at that time, the fourth vice-president of the American Federation of Labor and one of its Executive Council. 3156

And from the report of the proceedings of the same convention, being a portion of the Executive Council's report; I wish to read from pages 88 and 89, briefly:

"Executive Council Circular. Having all these subjects in mind we addressed a circular letter to organized labor as follows: Office of the American Federation of Labor, Washington, D. C., September 30th, 1903.

"To Organized Labor of America; Greeting."

3157 Mr. Beach:

Well, this is after the institution of the action, and we object to it.

Mr. Mulholland:

Just save our exception.

Mr. Davenport:

Now on page 89 a portion of this circular: "As the immortal Lincoln said 'This country cannot long remain half free and half slave.' So say we that any establishment cannot long remain or be successfully operated part union and part non-union."

3158 Mr. Davenport:

"In view of the publicity given this subject, the Executive Council of the American Federation of Labor takes this opportunity to say that the trade union movement stands for strictly union shops, experience having proved that where the open shop system has been tried, reduction in wages and profits have ensued with general disaster to the industry practicing that system; and therefore declares that the best interests of the Labor Movement call for the employment of union workers and discourages in every way, shape and form the deteriorating effects which follow the recognition of the open shop." And

3159 on page 211 a report to the Convention of that Committee. "Your Committee gave this whole subject full consideration and as a substitute for the resolution recommend the full endorsement of the position outlined in the report of the Executive Council on the open shop, and that the American Federation of Labor place itself upon record as being in favor of the union shop everywhere, as well in federal, state and municipal employment as in private enterprises and on the Miller case that all testimony relative to his unfitness to hold office and to his unfitness and immorality be transmitted to the President to be settled in routine of administrative details, with the ex-

3160 pressed desire of this convention that if said charges in whole or in part are sustained that Miller be dismissed from the public service. The report of the committee as read was adopted."

Mr. Beach:

Now if you are reading from that I think some of it also ought to be read in that connection. "All really educated and honest men realize and admit that a thorough organization of the working people to render employment and means of subsistence less precarious, by securing them an equitable share of the fruits of their labor, is the most vital necessity of our

time. Without such organization of labor in your present in- 3161
dustrial era of wealth concentration even a fair degree of industrial peace could not be maintained."—

Mr. Davenport:

It is part of the circular that was sent out.

Mr. Beach:

It is part of the circular from which you read an extract.

Mr. Davenport:

Yes, that is it.

Mr. Beach:

"The wage workers condition would be forced down to the lowest possible plane; their liberty would be crushed; their 3162
manhood and intelligence stunted and the intellectual, industrial, commercial and political standing of our country almost annihilated. In spite of strikes here and there, organized labor has etsablished a greater degree of uninterrupted industrial peace by agreement with employers. Such agreement implies the organization of the working people in factory, shop, mill or mine; for an organized body of workmen can only enter into an agreement with employers and faithfully abide by and carry into execution the terms of such agreement when all the workingmen of an employer, at least in any given plant, are all members of the union. 3163

The so-called open shop makes agreement with employers impractical if not impossible, for the union cannot be responsible for the non unionists whose conduct often renders the terms of the agreement ineffective and nugatory. The agreement or joint bargain of unorganized labor with employers depends for its success not only upon the good will of the union and the employer toward each other, but that neither shall be subject to the irresponsibility or lack of intelligence of the non-unionist, or his failure to act in concert with and bear the equal responsibilty of the unionists."

Mr. Davenport: 3164

Now I began and read from the bottom of page 87. "The President and Labor. The President accorded us the opportunity of a two hours interview of the discussion with him of a number of matters affecting the interests of labor. Particularly among these were the eight hour law and bill, anti injunction bill, and other matters relating to labor; the Miller case, as well as the case of Ephriam W. Clark. The President expressed himself in favor of the principles of the Eight Hour Bill, that he would take the Anti Injunction Bill under con-

3165 sideration; requested that a statement of the case of E. W. Clark be submitted to him, and handed to us a previously prepared statement regarding the Miller Case, as follows:—"

Mr. Davenport:

Well, I will go on: "September 29th, 1903. I thank you and your Committee for your courtesy, and I appreciate the opportunity to meet you. It will always be a pleasure to see you or any members of your Organization or your Federation as a whole. As regards the Miller Case, I have little to add to what I have already said. In dealing with it I ask you to re-

3166 member that I am dealing purely with the relation of the Government to its employees. I must govern my action by the laws of the land, which I am sworn to administer and which differentiate any case in which the Government of the United States is a party from all other cases whatsoever. These laws are enacted for the benefit of the whole people, and cannot and must not be construed as permitting discrimination against some of the people. I am President of all the people of the United States, without regard to creed, color, birth, place, occupation or social condition. My aim is to do equal and exact justice as among them all. In the employment and dismissal

3167 of men in the government service I can no more recognize the fact that a man does or does not belong to a union as being for or against him, than I can recognize the fact that he is a Protestant or a Catholic, a Jew or a Gentile, as being for or against him.

"In the communications sent me by various labor organizations protesting against the retention of Miller in the Government Printing Office the grounds alleged are two-fold; one that he is a union man; two that he is not personally fit. The quetsion of his personal fitness is one to be settled in the routine of administrative detail, and cannot be allowed to con-

3168 flict with or to complicate the larger question of governmental discrimination for or against him or any other man because he is or is not a member of a union. This is the only question now before me for decision, and as to this my decision is final."

Now I want to read also from the proceedings of the same convention, at the bottom of page 182, which was the action of the Convention upon the proposition to forbid any central labor union from placing any firm or manufacturer doing an interstate business on the unfair

list without the sanction of the National or International Union, whose interests are involved. 3168

Mr. Davenport:

I will start in with "Resolution 190, by John F. Tobin, Collis Lovely, Gad Martindale, James F. Carey, Boot & Shoe Workers' Union: Whereas many complications have arisen through the indiscriminate action of local unions and central bodies placing firms on the unfair list without securing the proper sanction of the national or international union representing the partcular trade or calling involved, and

Whereas hasty and ill-advised action of this kind has an adverse influence upon the general good reputation enjoyed by National and International Unions in the conduct of their business; therefore be it 3170

Resolved that the Committee on Laws, which is the committee that passes upon amendments to the Constitution: "Of this 23rd Annual Convention of the American Federation of Labor be instructed to amend the constitution so as to absolutely prohibit placing any business concern on the unfair list by any local, central or state body connected with the American Federation of Labor without the sanction of the National or International Union whose interests are involved and endorsed by the Executive Council of the American Federation of Labor where such business manufactures and sells merchandise outside of the particular town, city or state in which said manufacturing concern is located; and be it further 3171

"Resolved that where any business concern is on the unfair list contrary to the spirit and letter of these resolutions, a settlement shall be negotiated or the firm removed from the unfair list on or before February list, 1904.

"Committee on laws recommends the following substitute for the resolution to be added to Section 5 of Article XII: 'No central labor union or other central body of delegates shall have the authority or power to place any firm or manufacturer doing an interstate business on the unfair list without the sanction of the National or International Union whose interests are involved.' 3172

"Delegate Mackey opposed the Committee's substitute. Delegate Mikol favored the substitute. Delegates Murphy, Furuseth and Borden spoke against the substitute. Delegate Lennon said the amendment only affected

3173 firms doing an interstate business. Delegate Kelly opposed the committee's amendment. Delegate Vincens opposed report of Committee. Delegate Dutle said he was opposed to the Committee's report and also to the resolution itself. Delegate Cummins said he was in favor of the substitute. Delegate Kneeland opposed the substitute because it tied the Building Trades Hand and foot. The Building Trades Contractors are Interstate Contractors. Delegate Hirsch said he was in favor of the adoption of the resolution. He said all foreign beer is on the unfair list. Delegate Tobin said it did not apply in any way to

3174 the building trades. It only applied to products that were sold in the various states. He said that the Hamilton-Brown & Co. shop is a union establishment and uses the union label of the Boot and Shoe Workers. Delegate Hammerstrom favored the resolution. Delegate W. H. Sherman opposed the resolution. Delegate Kemper said he believed the building trades were right; but other trades were interested. Delegate Wolfe desired to be reported as opposed to the amendment. Delegate Wlison moved as an amendment that the words 'doing an interstate busi-

3175 ness' be stricken out, and the words 'making interstate sales' be inserted.

"The previous question was then called for. Agreed to. The motion to concur in the Committee's report was lost. Delegate Kaufman moved that the resolution be recommitted. On motion of Delegate Furuseth the whole matter was laid uopn the table."

Now I want in connection with what I have been putting in in regard to that circular to call attention to the fact that the official circular in regard to strictly union shops is to be found in the American Federationist for

3176 November 1903, on page 1196, and is signed by Samuel Gompers, President, James Duncan, First Vice-President, John Mitchell, Second Vice President, James O'Connell, Third Vice-President, Max Morris, Fourth Vice-President, Thomas I. Kidd, Fifth Vice-President, D. A. Hayes, Sixth Vice-President, John B. Lennon, Treasurer, Frank Morrison, Secretary, Executive Council A. F. of L."

And that in the American Federationist for December, 1903, on page 1282—

Mr. Mulholland:

We object to this also, and note our exception.

Mr. Davenport:

3177 "Occurs the following in President Gompers' report, which is the same Convention report that I have been reading from, as published in the American Federationist for December in full—what did I say then—the President's report is published in full; and what appears is in the report of the proceedings that were published: "The Union shop or open shop. Recently the opponents of organized labor have started an agitation for what they euphoniously designate as the open shop; and several employers otherwise fair, having been persuaded that the proposition on the surface appears to be ethical, have ad- 3178 vocated it. On the other hand our movement stands for the Union Shop, not as our opponents designated, the closed shop; for, as a matter of fact a union shop is not a closed shop. Any wage earner a member of an organization in any part of the country can enter the union shop. Any wage earner competent to fill any position in the union shop is not only eligible to enter to work therein, but the organizations have their hundreds of missionaries at work in and out of season urging and pleading with them to enter the wide open doors of the union. This so-called open shop is the disintegrating factor that leads 3179 to the non-union shop; in other words the shop which is closed to the union man, no matter from whence he hails or what his skill and competency. The so-called open shop influences wages and the standard of life to the downward course, for it is based upon the sycophancy of the most docile, and the most immediate needs of those in direct distress of the poorest situated among the workmen. Agreements or joint bargains of organized labor with employers depend for their success upon the good will of the union and the employers toward each other. Neither should be subject to the irresponsibility or the 3180 lack of intelligence of the non-unionist or his failure to act in concert with and bear the equal responsibility of the unionist. Hence the so-called open shop makes agreements and joint bargains with employees impracticable if not impossible. The union cannot be responsible for non-unionists whose conduct often renders the terms of the agreement ineffective and nugatory.

"Inasmuch as the most conspicuous antagonists of organized labor are sponsers for what they term the open

3181 shop, upon the pretense of the liberty of the individual, the thought forces itself upon us to ask: 'when in history have the opponents of any movement for the uplifting of the masses constituted themselves the advocates and defenders of the liberty and freedom of the people.' The whole hue and cry is designed to deceive the ignorant and enthrall the masses. I took occasion to say recently: 'to a non-unionist, despite that which his advocates say for him, cannot be attributed the virtue of helping his fellow workmen or contributing toward the establishment
3182 of more rightful relations between workingmen and their employers.' No force but that of persuasion, moral and intellectual influence should be exercised to convert the non-unionists to membership in our organizations, but it is hurtful from every view point and every enlightened interest to advocate the open shop. As the immortal Lincoln said 'This country cannot long remain half free and half slave.' So say we, that any establishment cannot long remain, or be successfully operated part union and part non-union."

Mr. Merritt:

3183 I will read the deposition of

S. B. PAUSON,

taken at San Francisco:

"Q. State your name, age, residence and occupation? A. My name is S. B. Pauson; my age is 36, my residence is 1901 Pacific Avenue, my occupation merchant.

Q. As a merchant you do business in San Francisco? A. Yes, sir.

Q. And you deal in hats? A. Yes, sir.

3184 Q. How long have you been engaged in dealing in hats? A. I guess we have kept hats for twelve or fourteen years; twelve years.

Q. Do you know the firm of Triest & Co. of San Francisco? A. Yes, sir.

Q. You have purchased hats from them? A. Yes, sir.

Q. For what period? A. For I guess that entire period.

Q. Were you ever visited by any one, or received any circulars or communications, asking you not to pat-

ronize Triest & Co.? A. Yes, we received a circular, and 3185
I was visited by somebody; I don't remember who it was any more.

Q. Do you recall who the man that visited you represented himself to be? A. No, I can't just think. It is a long time ago.

Q. Can you state whether he was a local man? A. No. I have no recollection any more.

Mr. Merritt:

I now read the deposition of

ALBERT ELKUS. 3186

"Q. State your name, age, residence and occupation? A. My name is Albert Elkus, age 51, occupation merchant, my business is Ninth and K Sacramento and my residence is 1515 N Street Sacramento.

Q. Do you deal in hats? A. Yes, sir.

Q. How long have you dealt in them? A. How long?

Q. Yes? A. About fourteen or fifteen years.

Q. Under what name? A. Thirteen years under my own name of Albert Elkus. 3187

Q. Always in Sacramento? A. Yes, sir; I was born there.

Q. Are you acquainted with the firm of Triest & Co.? A. Yes, sir.

Q. Have you purchased hats from them? A. Yes, sir.

Q. Do you know D. E. Loewe & Co.? A. No, sir.

Q. Will you state whether or not you have ever been visited or received any communications from any one asking you not to deal with Triest & Co.? A. Yes, sir.

Q. You received some communications? A. If my memory serves me right, it was a circular. I think it was a printed circular. 3188

Q. About how long ago was that? A. I think it was in 1903.

Q. Would you know one of those circulars if you saw it? A. I couldn't say.

Q. Have you any of them in your possession? A. No, sir, I haven't.

3189 Q. How many of them did you receive? A. I couldn't say that I received more than one. I have a recollection of receiving it; also a party called in there; but whether I got more than one I wouldn't say.

Q. Were you visited by any one? A. Yes, sir.

Q. Can you state who it was? A. I can't.

Q. Would you recall the name if you heard it? A. I wouldn't.

Q. Do you know whom the man represented himself to be? A. As well as I can remember—I have been thinking of it ever since I was subpoenaed—he came into 3190 our place and told us that he presented or was traveling in the interest of the unions or some union, and that Triest & Co. was keeping a non-union hat and that he advised us to buy nothing but the label hat; something to that effect. It was something that at that time I didn't impress my memory with very much.

Q. How long had you dealt with Triest & Co.? A. I was in partnership before I was in business for myself, with my father, and we have dealt with Triest & Co. as far as I could remember as a boy.

3191 Q. Were your relations satisfactory or unsatisfactory? A. Always satisfactory.

Q. Are you dealing with them today? A. Yes, sir.

Q. Have you continued dealing with them? A. I did except during that time when there was a talk about there being a non-union hat.

Q. For how long a period did you stop? A. According to my books it was about a year.

Q. Why did you stop? A. On that account.

Q. Just state what you mean by "that account"? A. On account of the feeling there was in Sacramento against 3192 buying hats from Triest.

Q. Do you know whether or not Triest & Co. carried union as well as non union goods at that time? A. Yes, sir, I do.

Q. Why didn't you purchase union goods from them? A. It was this way; if I only had to buy certain things in the union line that they kept, and then go somewhere else and buy the other lines of union goods in this market—you see I was buying hats in the eastern market and buying as I needed in the San Francisco market—if I had to split it between two houses, it was not enough to

justify either, as long as there was a feeling against them at that time on account of the union hat to wipe away and to give the trade to one house that would make our trade worth while to them." 3193 1

I don't think I have read that very intelligently:

"The young man who I had in charge of my department transferred the account to the one person.

Q. What year was it when you discontinued doing business with Triest & Co.? A. I believe it was 1903. No, I see it was 1901.

Q. Will you state the business that you did with Triest & Co. in the year 1902? A. $166.30. 3194 2

Q. Will you state the business that you did with them in 1903? A. $1,492.00.

Q. Will you give us the same information concerning 1904? A. $164.38.

Q. What is the date of the last bill bought in 1904? A. $18.00 on November 22nd.

Mr. Beach:

It is understood, I assume, that the same objections, rulings and exceptions apply to this deposition as to the other deposition.

The Court: 3195

It will be so understood.

Mr. Merritt:

I will read question 38. "Were the goods satisfactory or unsatisfactory? A. They were as satisfactory as any house we dealt with. There are always some complaints with all houses. I should say they were satisfactory.

Q. They were as satisfactory in those years as in any other years? A. Yes, sir.

Q. What was the cause of the dropping off of the business from 1903 where it reached $1400 and something to 1904, where it fell down to $164.00? A. I could not say unless I knew the year that that agitation took place. 3196

Q. Is it your recollection that there is some connection between that agitation and the dropping off of that business? A. I know shortly afterwards that I stopped dealing there. You can tell yourself by this statement whether my statement is correct or not.

Q. Was it on that account? A. Yes, sir, naturally.

3197 Q. I show you a printed circular purporting to have been issued by the San Francisco Labor Council and ask whether you recall having received a circular of which that is a copy? A. I have a recollection of a similar one; whether it is the same or not I could not say. I received a circular at the time, and the contents were about on those lines."

The circular is offered. This is the same circular as offered in evidence in this case as "Plaintiff's Exhibit 66." I think it has been read once anyway and it is a circular signed by W. C. Hennelly and D. P. Kelly.

3198 Mr. Davenport:

What is the date?

Mr. Merritt:

Dated July 3rd, 1903. The one set forth in the complaint.

"Q. When did you start patronizing Triest & Co.? A. Just as I say. We dealt with them in the old store when I was in partnership with my father, and I went back as far as I could in my books that I have and it is 1898 when I was dealing with them; and I dealt prior to that.

3199 Mr. Beach:

I will read some of the cross examination of this witness.

Q. What was the amount of business you did with Triest & Co. in the year 1901? A. I don't find anything in 1901.

Q. Do you know the reason why you didn't deal with them in 1901? A. I do not; no.

Q. Do you know the reason why you didn't purchase more than $166 worth from them in 1902? A. I do not. Will you allow me to explain?

3200 Q. Fully? A. We have a head to our hat department and they once in a while switch. Now a very short time ago they switched the man and I started in with Triest and instructed him to continue with them. We have been friends for years, and friends of our people here in San Francisco in business; and I have to instruct him every once in a while. Some drummer will come along with some new hats, or something like. Then again we may have over-bought in that year, and then switching the duplicates off to another house would account for

not dealing with them at any set time. In 1907 we only bought $18.00. I had a young man there who was very much prejudiced in favor of one line of hats. 3201

Q. How much did you buy from them in 1906? A. $134.00.

Q. Can you explain how you happened to buy such a large amount as $1492 in 1903? A. I could not unless I have the bills. I could not account for it in any way except possibly 1903 might have been a Presidential Election or a State Election or something where there were uniforms or something like that, and I had to have caps made. I had contracts with different firms down here, and it may have been run up that way. 3202

Q. What would you say was your recollection as to that business; was it or not composed of caps—that business in 1903? A. Oh, yes, I dealt with them right along in caps, and it may have been a cap bill or something of that kind, a part of it.

Q. Have you any recollection as to whether it was in large parts composed of purchases of caps? A. No, it would hardly be that much; it would hardly be a large part of it. It run all over. Undoubtedly, as I said before, the man who was in charge at that time no doubt followed my instructions and gave what orders he could to Triest, because it runs in bills, none of them over $100 during the whole year. 3203

Q. Have your buyers any instructions from you now as regards dealing with Triest & Co.? A. Yes, sir.

Q. What instructions have they? A. To give them the preference at equal value.

Q. And did they have any instructions from you in 1905? A. I won't say.

Q. What is the amount of business you have done with Triest & Co. during the present year? A. That instruction was given a short time ago." 3204

That is, I suppose, the instructions giving Triest & Co. a preference at equal value. "That was in June. I had an open store and my man came over to buy from another house he had been buying from and I asked him to go to Triest and if he could do as well I wanted him to deal there. That was in June, 1908. That was $224 since June.

Q. $224 since June, 1908? A. Yes, sir."

3205 Mr. Merritt:

Well, I read the deposition of

HERMAN SUMMERFIELD.

"Q. State your name, age, residence and occupation? A. My name is Herman Summerfield, age 54, residence 2119 Scott Street, San Francisco, occupation retired merchant.

Q. Are you in business today? A. No, sir.

3206 Q. What has been your business? A. Clothing and furnishing goods and hats.

Q. What was the name of your concern? A. Well, I was for twenty odd years with Summerfield & Roman; then the firm went to H. Summerfield.

Q. When did the change take place, do you recall? A. In 1901.

Q. You have done business under the name of H. Summerfield since 1901? A. Yes, sir.

Q. And you have always dealt in hats? A. Yes, sir.

3207 Q. You are acquainted with Triest & Co.? A. Yes, sir.

Q. And you dealt with Triest & Co. and purchased hats from them? A. Most of my hats, yes.

Q. Have you any books showing the amount of business you did with them? A. I lost everything in the fire. I saved no books at all.

Q. You have no records in existence as far as you know, concerning this matter? A. None at all, no.

Q. Have you any idea of the amount of business you did with Triest & Co.? A. Oh, yes, there were months when I purchased from $300 to $800 a month.

3208 Q. Have you any idea of the amount of business you did with them in the first two years when you were operating under the name of H. Summerfield? A. Yes, sir; when I started the H. Summerfield firm I bought my whole bill to begin with.

Q. That was in 1901? A. Yes, sir.

Q. And in 1902 do you recall? A. I bought most of my hats of Triest & Co. They treated me right and I had full confidence in their business and prices and so on, and had known them for so many years. I had traded so

many years with them previous to this separating of Summerfield & Roman that I placed all the confidence in the world in them, and I know they treated me right 3209 17

Q. Can you give me any estimate of what you believe to be the total amount of hats that you purchased of Triest & Co. during the combined period of 1901 and 1902? A. I bought in 1903 to 1904, 1905 and 1906.

Q. I am asking you now concerning 1901 and 1902? A. In the two years only?

Q. Yes? About $3000 or $4000 of goods in those two years easy; maybe more.

Q. Could you testify that it was at least $4000? A. I could not be positive, but as near as I recollect. 3210 18

Q. Could you testify that it was at least $3,000? A. Probably. That is what I really think it was, about. I did quite a hat business.

Q. I want you to testify to some figures, if you can. Could you testify that it was at least $2,000? A. Yes, sir.

Q. That you bought at least $2,000 worth of goods from them during the two years? A. Yes, sir, as near as I can recollect.

Q. Do you recall ever receiving a visit from anyone concerning Triest & Co., with a request not to patronize them? A. I will tell you: If I recollect right, I got once a circular from the East not to patronize Triest & Co. as they were handling non-union goods, or something to that effect. 3211 9

Q. Do you recall receiving any other circulars? A. I got circulars from the union, yes, sir.

Q. Have you any of those circulars in your possession? A. I have none in my possession. I don't know whether I kept the circular. All I know is that they called, to my best recollection—

Q. Just a moment. I am going to interrupt you. Just limit yourself to answering my questions and we will cut the record short? A. Very good. 3212 0

Q. Do you recall what you did with these circulars? A. I don't know. I may have thrown them away in the waste basket.

Q. Will you state whether or not you ever handed one of these circulars to any of the Mr. Triests."

That is admitted that he received Exhibit 56 and handed it to Mr. Triest. I will ask to have this marked—

3213 Well, it has been marked as "Plaintiff's Exhibit 74" and read to the jury.

Mr. Mulholland:

What is the date of it?

Mr. Merritt:

Dated October 12th, 1903.

Mr. Mulholland:

Objection. Exception.

Mr. Merritt:

Signed by Wisler, Secretary of the San Francisco Labor Council, addressed to H. Summerfield, 947 Market
3214 Street.

Mr. Merritt:

"When calling on you some time ago with reference to the purchasing of hats from Triest & Co. by your concern, I understood you to make the statement that you would transfer your patronage from Triest & Co. to some other concern. Since that time we have learned that you have again purchased more hats from the above named concern. We again request that you transfer your patronage to some other hat jobber in this city in order that
3215 we may not be compelled to class you among the concerns antagonistic to organized labor in this city. Very Truly Yours, R. I. Wisler, Secretary San Francisco Labor Council.

Q. Do you recall whether or not you received any other circulars besides this one? A. Well, I think I got a letter from the east from some union people saying that they had put on a boycott on a certain factory, or something like that.

Q. This is the letter that you testified to before? A. Yes, sir.

3216 Q. Do you recollect the name of the factory? A. I don't recollect.

Q. Was it the factory of D. E. Loewe & Co.? A. It sounds something like.

Q. Do you recall whether you received any other circulars? A. I don't know; I could not tell.

Q. How did you know that they were union men? A. I asked them who they were at first and they told me that they were officers of the union.

Q. Do you recall their names? A. No, sir.

Q. Could you say whether their names were Kelly and Hennelly? A. I could not tell. I could not be positive. They might have been those names but I don't recollect. 3217

Q. Do you recall the names of the unions that these men represented? A. No, sir; I do not either.

Q. Could you state whether or not it was the Hatters' Union? A. It must have been the hatters' union because no other union would send the circular.

Q. Have you any recollection as to whether or not they did state that they represented the hatters' union? A. I think that was the substance of it." 3218

And I now offer the statement.

Mr. Mulholland:

Object.

The Court:

Well, I think I will allow it.

Mr. Mulholland:

Exception.

Mr. Merritt:

Question 37 "Can you state whether or not you ever received any visits from any one in reference to this matter? A. I think once a couple of union men came to the store and gave us warning that if we were to buy goods from Triest & Co. we would be quite damaged by their patronage, or something to that effect. 3219

Question 45: What answer did you make to the requests of these men when they visited you? A. I carried mostly union goods and if that was the case I would have to cease trading with Triest & Co. We had a good working class trade, and I had to stay with them.

Q. What made you think you would lose the working class trade? A. Because I have had for years and years the best trade from the working class trade, and I knew if we did not side in with as to the label and so on it was a detriment to the store; besides I had union cards in my window and naturally carried most all union goods. 3220

Q. Can you state what proportion of the goods that you purchased from Triest & Co. during the years 1901 and 1902 were union and what proportion were non-union? A. I could not tell exactly what proportion it was. I rather always preferred the union goods to non-union

3221 goods. I don't know exactly today how much of union or non-union I had.

Q. Did you at that time in the year 1901 take the trouble to ascertain in each instance whether or not the goods you purchased bore the union label? A. I need not ask that. All I need to do was to open up the sweat band and look where the union label was.

Q. I will ask you if you did always go to this trouble during the years 1901 and 1902? A. I believe every hat man does the same thing; they look after the lbael.

3222 Q. Were they accustomed to do that in 1901 and 1902? A. They are accustomed all the time to see—even today people that depend a great deal on the working class trade know that the combined union always look for the union labels; in fact everything that I could buy in our line of business I much preferred the union label. Even in clothing I saw that the union label was sewed in.

Q. You have testified that you always took the trouble to ascertain what goods were union and what goods were non-union in the years 1901 and 1902? A. Yes, sir.

3223 Q. I will ask you then to testify to the best of your recollection what proportion were union and what proportion were non-union of your purchases from Triest & Co.? A. I could not state exactly today; but most of it was union goods.

Q. Your recollection on that point is absolutely clear? A. As nearly as I can.

Q. What were the principal grades of hats that you purchased from Triest & Co.? A. I bought nothing less than $18.00 dollars a dozen.

Q. Do you remember the brand? A. The Lion Brand was one of the principal brands.

3224 Q. Did the Lion Brand always bear the label, or did it not? A. I think most of the time it did; as near as I recollect.

Q. As far as you know, did the Lion Brand sold by Triest & Co. necessarily bear the label? A. If you intended to keep the general run of customers you would have to have the union labels."

Answer again "Well it was customary again, I think that the union label was in their trade.

Q. Can you answer that question yes or no? A. Yes, sir; it was necessary to have the union label. 3225

Q. Now will you state whether or not during the period following 1902, you purchased union and non-union goods both? A. Yes, sir; I bought union and probably non-union; but when this agitation came about these union labels I told Mr. Triest I would have to quit him unless he got the union label, because they used to come in there and say 'show me a hat,' and the first thing they did was to open it to see if the union label was under the sweat band; and if they found it was not they would not even give an answer but walk out. 3226

Q. When did you begin to notice that sort of thing? A. I don't recollect exactly what year that was; but just as soon as this label business started to come everybody was the same thing; even people came in that did not intend to purchase at all but just to satisfy themselves whether we carried union goods. They would come in and say 'let me see a hat.' As soon as they did not see a label in they would throw the hat down and not even say anything and out they would run.

Q. You testified it occurred when this label business took place. What relation in point of fact does that bear to the dates when you received these calls and this circular? A. It was just at the beginning; right when they started in with the union label that the labor classes voted 'don't patronize or buy any goods that have not got the union label'; so that any one that wanted to do any business was really obliged to have the union goods or union label in order to do business with the working class people. 3227

Q. Do you recall about the year when this took place? A. I could not say the year. I know it was right from the beginning when they started in with the label business. It really interferred with our business considerably, because we had a big stock of goods on hand that had no labels; and we had to dispose of these also. 3228

Q. I will ask you when you have testified here several times that this took place when the label business arose, are you referring to the time when Triest & Co. were put on the unfair list?"

Mr. Beach:

Objected to as leading.

3229 The Court:

Oh, you may read that, sir.

Mr. Mulholland:

Save an exception.

Mr. Merritt:

"Q. I will ask you when you have testified here several times that this took place when the label business arose, are you referring to the time when Triest & Co. were put on the unfair list? A. Yes, sir.

Q. This label business that you refer to just what do you mean by that? A. That the unions voted unless they
3230 see a union stamp or label on the goods not to patronize or buy the merchandise that were not union labeled.

Q. What relation in point of time did that bear to the time when Triest & Co. were put on the unfair list? A. What date do you say?—I could not tell the exact date.

Q. Was it approximately about the same time? A. About the same time; yes.

Q. You stated at this time you had a large amount of non-union goods on hand? A. Yes, sir.

Q. Now will you state since that time, if you can, how many non-union goods you have carried? A. In hats only?
3231 Q. Yes? A. Well, very few non-union hats, because it did not work some how or other. The union label goods cost almost the same thing and as long as we could sell the union label goods quicker I preferred buying everything union labeled. There was only one factory I think that did not have the union label and that was John B. Stetson.

Q. What did you mean when you testified that you had difficulty in disposing of the non union goods you had on hand at the time when this label business started? We had a kind of good excuse to make, saying: 'what can we do with these goods? but we promise you in future not to buy any-
3232 thing but union goods label goods; but we have to dispose of what we have'; and, if I am not mistaken, there was such a time that the union gave a certain amount of time to dispose of those non union goods; that they were to have sixty or nienty days to sell those goods in. I think that is as near as I can recollect.

Q. Is that what they did with you? A. Yes, sir; they did it with everybody else I suppose.

Q. Do you know what they did with other people? A. I don't know exactly what they did with others; but it was supposed to be that.

Q. Did you experience greater or less difficulty in disposing of non union goods prior to this period of time concerning which you have testified that you had difficulty? A. It was ont so noticeable. There were union label goods all the time before this agitation was, but we did not have the chance of getting swaps, as we called it, on sale, because there was no union label, because the label was not looked for until those unions came together and said on all the merchandise that they manufactured they wanted to have union labels to protect their rights, or whatever it was. 3233

Q. I will ask you whether or not that was the time when you gave Mr. Triest instructions in regard to the union label? A. Yes, sir. 3234

Q. I will ask you whether or not in giving this testimony concerning labels and the demand for labels you are testifying simply about hats? A. I was called here to testify in regard to hats.

Q. You have spoken of the increased prominence given to labels and the fact that the sweat band was lifted up by people who came into your store, more frequently at this time. A. Yes, sir.

Q. I will ask you if that increased prominence to the labels concerning which you have testified was limited to hats? A. Those that come in for what, it was limited to hats; but there was also other merchandise that we carried that they also looked at. 3235

Q. I am going to ask you whether or not this increased prominence given to labels at this time was limited to hats or whether there was a similar prominence given to other labels just at this time? A. Yes, sir; people that came in to buy a suit of clothes would look in the pockets to see if the union label was sewed in.

Q. You noticed this same change at this same time in connection with clothes? A. Yes, sir. 3236

Q. As you did in connection with hats? A. Yes, sir.

Q. Sometimes we thought we had made a sale but before the money was paid they looked to see if the label was there and if it did not show any label they did not want to buy the suit.

Q. And in that connection with clothes the examination of the label began largely at this period? A. Yes, sir.

Q. What did you state was your answer to these men that called on you concerning Triest & Co.? A. That I

3237 would have to quit Triest & Co. unless I can buy union label goods only.

Q. Did you quit them at all? A. I did not quit them for quite a while.

Q. You knew you could buy union made goods from them did you not? A. I supposed they did not have all union made.

Q. State whether or not you mean to testify that you would quit Triest & Co. until they carried all union made goods? A. Yes, sir.

Q. You mean by that until they carried only union
3238 made goods?" "A. I will tell you; at that time the talk was all around town 'don't patronize Triest they don't carry union goods' or whatever the trouble was at the time—there was a boycott, the way I understood on Triest & Co., not to patronize them at all.

Q. When did you get this information? A. When business people come together they talk about different matters in that way.

Q. And this is what you understood? A. Yes, sir; and in order not to lose any trade we had to quit Triest & Co."

3239 Recess.

Mr. Merritt:

I will read the deposition of

M. J. KELLER:

taken at San Francisco:

"Q. State your name, age, residence and occupation? A. My name is M. J. Keller; age about sixty, residence Oakland, California; occupation merchant.

Q. How long have you been dealing in hats in Oakland,
3240 Mr. Keller? A. Fifteen years.

Q. Always under the name of M. J. Keller & Co.? A. M. J. Keller Co.

Q. During the course of that time have you ever purchased any hats from Triest & Co.? A. Yes, sir.

Q. Did you purchase any hats from them in the year 1900? A. Yes, sir.

Q. Can you give me the amount of those purchases? A. I have made a copy of the ledger and if it is necessary that I foot up the purchases from this I can do it, or I can deal with the whole thing.

Q. Mr. Keller, I show you certain papers which you 3241
have brought into court and which you certify contain a copy of the purchases from Triest & Co. since September 1st, 1898 to this date, as they appear in the ledger account of M. J. Keller Co., Oakland; I will ask you if you can testify that the paper contains a correct transcript of your ledger covering the items therein mentioned? A. I believe it does.

Q. I will ask you whether you can testify that that paper covers all the purchases made by your house from Triest & Co. between the dates therein mentioned? A. Yes, sir; the purchases in Oakland. I had a house in San Francisco for a time, but I was not asked to furnish any evidence 3242
regarding that. I take it that you only wanted the M. J. Keller Co., Oakland.

Q. I will now ask you whether or not you have ever received any circular asking you not to patronize Triest & Co.? A. Yes, sir.

Q. Did you receive more than one? A. I have received two.

Q. I will ask you if you have any of those circulars in your possession? A. No.

Q. I show you "Plaintiff's Exhibit 66" and ask you whether you have ever seen that before? A. Yes, sir, I be- 3243
lieve I have."

"Q. Did you receive that? A. Yes, to the best of my recollection I did.

Q. How did you come into possession of it? A. Through the mails.

Q. I will ask you whether or not you have ever received any visits from any one asking you not to patronize—" I will read the exhibit first, which is "Plaintiff's Exhibit 81" in this case, which has already been read to the jury, addressed to M. J. Keller Co., Oakland, "Dear Sirs: The firm known as Triest & Co. of San Francisco, Calif., is considered unfair by organized labor who have concluded to cease pur- 3244
chasing hats coming from said firm. For further information we shall be pleased to have you attend a meeting of the Executive Board to be held September 9th, 8 P. M., 453 Eighth Street, signed Charles W. Petry, Secretary" and the heading is "Headquarters Alemeda Federated Trades Council."

"Q. Do you know what proportion of your purchases from Triest & Co. during the years 1900, 1901 and 1902 were union goods and what proportion non union? A. I do not

3245 Q. Did you pay any attention to the matter at that time? A. No; the fact is I was not buying the hats myself. I had a manager who bought the hats.

Q. Have you any records to show what proportion of your business with Triest & Co. during the periods covered on 'Exhibit 72'" which were his accounts which he produced there "was in straw hats? A. No I have no idea.

Q. Or what proportion was in stiff hats? A. No.

Q. Can you state what proportion of your purchases from Triest & Co. during the 1905 were union and what proportion were non union.

3246 Q. You have no information on that subject whatsoever? A. No information.

Q. Did you ever appear before the Alemeda Trades Council in answer to this circular"? "Exhibit 81" A. I never did.

Q. Can you state whether the receipt of this circular and the visit of the two gentlemen, concerning which you have testified has at all affected your patronage with Triest & Co.? A. I cannot tell.

Q. Why can't you tell? A. Because I was not doing the buying myself.

3247 Q. Who was doing the buying? Did you give the name of your buyer? A. You mean my buyer then?

Q. Yes? A. I did not give any name.

Q. Will you give me the name now? A. I cannot tell who was buying at that time.

Q. He is not connected with you today? A. No; well not that I know of. Did you say 1905?

Q. Yes? A. No, he is not connected with me, I don't think; I don't know who it was.

Q. And the same would be true of 1903 and 1904 I suppose? A. I could not recollect because there were different ones at different times; so I could not tell who was

3248 with me either year."

Now I will read into the report the purchases made by M. J. Keller & Co. from Triest & Co. for the respective years.

Mr. Beach:

This is all subject, of course, to our general objection and ruling and exception.

Mr. Merritt:

1898. Well there is no objection to that, is there?

The Court:

What is the purpose of the offer as to 1898?

Mr. Merritt:

Simply to show the fixity of business relations between the customers of Triest and Mr. Triest and the long course of dealings between them.

The Court:

It may be admitted for that purpose.

Mr. Mulholland:

Exception.

Mr. Merritt:

"1898, $1178.28; 1899, $2143.41; 1900, $3,014.66."

ALEXANDER BRIONES.

"Mr. Merritt:

Q. State your name, age, resident and occupation? A. My name is Alexander Briones, age 32, residence Stockton, occupation clerk.

Q. You are a clerk in what store? A. In the I. X. L. Clothing Store.

Q. That concern handles hats? A. Yes, sir.

Q. How long have you been connected with them? A. About ten years.

Q. And have always handled hats? A. Yes, sir.

Q. Can you tell me whether or not your duties in connection with that store, include the purchase of hats? A. Yes, sir; I have power to purchase.

Q. Will you state whether the IXL purchased hats from Triest & Co.? A. They always have as far as I can remember. They have always dealt with Triest & Co.

Q. They have dealt with them during practically the whole period you have been connected with them? A. Yes, sir, practically.

Q. State whether they ever stopped dealing with them for any period? A. Yes, sir, they have stopped once, I believe.

Q. For how long a period was that? A. Well, I cannot just remember the exact time; but I should judge it was somewhere near a year or so.

Q. Do you know about what year it was? A. I think it was in 1903 and 1904, along there some time, as near as I can remember.

3253 Q. Do you recall the reason that they stopped at that time? A. The reason was on account of the fact that this house was carrying goods made from an unfair house.

Q. What goods do you refer to? A. Hats. Do you mean the name of the factory?

Q. Yes? A. I don't know the initials, but I believe it was Loewe of Danbury, Conn.

Q. How did you learn that these goods were regarded as unfair? A. Why, through the union that I belonged to.

Q. You belonged to a union at that time? A. I did, yes.

3254 Q. What union was that? A. The clerk's union.

Q. How did that matter come to your attention while a member of the union? A. It was read there, I believe, before the union.

Q. What was read? A. There was a letter, I believe, read before the union in regard to this factory being unfair.

Q. Do you recall whether or not that letter was in the form of a printed circular? A. I did not see she circular exactly, but it was read, I think it was something in that form.

3255 Q. Can you state whether or not the IXL store or yourself received any circular concerning this matter? A. I could not say for the firm, because I never had any dealings with the mail matter.

Q. Did you yourself receive any circulars? A. No, sir; not myself personally.

Q. Did you ever see any circulars in the house with which you were connected of this nature? A. I think I did see something of that form.

Q. Have you any of them with you? A. No, sir. I have no records.

3256 Q. Do you think you might recognize one if you saw it? A. I think I might.

Q. I show you 'Plaintiff's Exhibit 57'" which is "Exhibit 83" in this case "and ask you whether or not you have seen any circulars of that nature in the IXL clothing store? A. I cannot say that I saw this exact thing, but I knew they had these circulars out; similar circulars of this kind.

Q. Will you state how the substance of the printed matter on that circular compares with what was read before the retail clerks' union at the time concerning which you have testified? A. To the best of my recollection it looks very similar

to what they read." I will read this exhibit 83 again to the jury: 3257 5

"San Francisco Labor Council, San Francisco, July 3rd, 1903, to whom it may concern: At a meeting of the San Francisco Labor Council held on this date the Hat Jobbing concern known as Triest & Co., 118 Sansome Street San Francisco, was declared unfair for persistently patronizing the unfair hat manufacturing concern of D. E. Loewe & Co. of Danbury, Conn., where the union hatters have been on strike for union conditions since August 20, 1902. Triest & Co. will be retained on the unfair list as long as they handle the products of this unfair hat manufacturing company. Union 3258 6
men do not usually patronize retail concerns who buy from unfair jobbing houses or manufacturers. Under these circumstances all friends of organized labor and those desiring the patronage of organized workers will not buy from Triest & Co., 116 Sansome Street, San Francisco. Yours respectfully, G. B. Benham, S. F. Labor Council, T. E. Zant, Secretary S. F. Labor Council, W C. Hennelly, D. P. Kelly, representing the United Hatters of North America.

Q. I will now ask you why the fact that you learned that Triest & Co. were carrying unfair goods did lead your house, the I.X.L. Clothing Store to cease patronizing them? A. Do you want to know why they ceased patronizing Triest 3259 7
& Co., is that the idea?

Q. Yes? A. Because they were handling this particular manufacturer's goods, I believe.

Q. Were you or were you not aware that Triest & Co. carried both union and non union goods? A. Yes, sir; I knew that.

Q. Why should the mere fact that they were handling the goods of D. E. Loewe & Co. lead you to cease patronizing them? A. Because they continued to carry these Loewe hats, and they were instructed through the Union to cease patronizing Triest & Co. 3260 8

Q. Why should you follow the union's instructions? A. Because they were all banded together to help one another, I suppose.

Q. Were the goods of Triest & Co. satisfactory? A. They were always.

Q. Who is the proprietor of the I.X.L.? A. At this time now?

Q. Yes? A. Mr. Carl Steinhart.

3261 Q. And he was proprietor at the time this took place during 1903 and 1904? A. Mr. Max Goldsmith was the proprietor then, I believe; they were both connected with the business.

Q. Did you cease patronizing Triest & Co. on your own responsibility.

Q. Did you have any conversation with Mr. Goldsmith concerning that matter? A. No, sir.

Q. You received no instructions from him concerning dealing with Triest & Co.? A. No, sir.

Q. Did you ever receive any instructions from Mr. Steinhart in this connection? A. To stop buying from
3262 Triest & Co.

Q. Or to continue buying from them. Any instructions of any kind concerning Triest & Co.? A. He did not tell me anything in regard to stopping, or one way or the other.

Q. When did Mr. Steinhart come into partnership? A. I think it is three years ago, if I am not mistaken.

Q. Will you state again whether or not the union goods sold by Triest & Co. compared favorably or unfavorably with the union goods sold by other concerns? A. They were all the same I believe.

Q. Had you patronized union or non union goods or
3263 both prior to 1903? A. We used both.

Q. I will ask you once more why you transferred your patronage from Triest & Co. to some other house? A. Because they were on the unfair list.

Q. I will ask you in a general way the amount of business you did with Triest & Co."

I don't claim the rest of that, unless you want it. Perhaps I better read it.

"The amount of business you did with Triest & Co. prior to this period of time when you stopped on account of their being on the unfair list; was it considerable; or a small
3264 amount? A. I don't know what you might term a large amount or a small amount.

Q. What proportion of your whole purchase in felt hats did it constitute? A. I should judge about fifteen hundred dollars or may be a little more or less a year.

Q. How much did you say it was a year? A. About fifteen hundred dollars to the best of my knowledge. I do not just exactly know the exact amount.

Q. Can you state whether it was increasing or decreasing up to the time that you stopped for this period of time?

A. I cannot say whether it was increasing or not. I have no records and do not just exactly know. **3265**

Q. Have you the records showing the amount of business done with Triest & Co.? A. No, sir; they were destroyed by a flood that we had in our town." Fire in Baltimore and fire at San Francisco and flood in Stockton.

Mr. Merritt:

"Q. They are no longer in existence then? A. No, sir."

Now I read the deposition of

DAVID KLINE: **3266**

I think I will call the court's and jury's attention to the fact that we have been reading the depositions of retailers who dealt with Triest & Co., and Mr. Kline is a jobber who dealt directly with the plaintiffs.

Mr. Merritt:

Yes: "State your name, age, residence and occupation? A. My name is David Kline, age 45, my place of business is at 24 Sansome Street; my residence is at the Hotel Normandie, corner of Sutter & Gough; occupation wholesale hatter.

Q. How long have you been in business as a wholesaler of hats? A. Personally twenty seven years. **3267**

Q. Under what name? A. Louis Kline & Co.

Q. Always been under that name? A. Yes, sir.

Q. And always done business in San Francisco? A. Yes, sir.

Q. Will you state whether that concern has ever bought hats of D. E. Loewe & Co. of Danbury, Conn.? A. Yes, sir.

Q. Have you any books showing the amount of hats purchased from D. E. Loewe & Co., and the years when the purchases were made? A. No, sir.

Q. What has become of them? A. They were all destroyed in the fire of 1906. **3268**

Q. Do you recall the years during which you patronized D. E. Loewe & Co.? A. Several years prior to the fire of 1906, how far back I cannot remember.

Q. Have you purchased from them since the fire of 1906? A. No, sir.

Q. Do you recall the year of your last purchase? A. Yes, sir.

Q. What year was that? A. That was in 1905.

3269 Q. Do you recall in what part of the year you made that purchase? A. I think it was in September.

Q. Have you any record of the amount of your purchases in 1905 from D. E. Loewe & Co.? A. In the neighborhood of a thousand dollars.

Q. Have you any record of it? A. No, sir.

Q. Your recollection is that it was in the neighborhood of a thousand dollars? A. Yes, sir.

Q. Do you recall whether or not you did business with D. E. Loewe & Co. in the year 1904? A. I do not.

Q. You have no recollection on that point whatsoever?

3270 A. No, sir.

Q. Do you recall whether you did business with them in the year 1903? A. I cannot.

Q. Do you recall whether or not you did business with them in the year 1902? A. I cannot recall that either.

Q. Do you recall whether you did business with them in the year 1901? A. I cannot.

Q. Can you not state in a general way during what period of time you did business with them? A. No, sir.

Q. You have no recollection on that point whatsoever? A. No, sir; I only remember from 1905.

3271 Q. Can you refresh your recollection from any event that has taken place here in San Francisco? A. Yes, in 1905.

Q. From any events that have taken place prior to that time? A. No, sir.

Q. I show you plaintiffs exhibit 57" 57 is Plaintiff's Exhibit 83 which I read to you a few minutes ago.

"Q. I show you plaintiffs exhibit 57 and ask you whether or not you have ever seen any circulars of that kind? A. Yes, sir.

Q. Can you state in relation to the time when Triest & Co. were declared unfair as to whether or not you were

3272 doing business with Loewe & Co. during that year? A. Yes, sir.

Q. You were doing business in that year? A. Yes, sir, 1905.

Q. This circular is dated 1903 and refers to a strike which took place in the factory of D. E. Loewe & Co. in August, 1902; can you state whether you were doing business with D. E. Loewe & Co. at that time? A. As far as I can remember we were doing business previous to the time of this circular being sent out?

Q. That was in 1903? A. Yes, sir. 3273 31

Q. Do you recall of having heard of the strike that took place at the factory of D. E. Loewe & Co.? A. Yes, sir.

Q. Do you recall whether you were doing business with D. E. Loewe & Co. at that time? A. Previous to the time of the strike, yes, sir.

Q. Did you receive any communications from Mr. Loewe concerning the strike? A. No, direct from him, no, sir.

Q. Do you recall whether you were doing any considerable business with them at the time you first heard of the strike? A. I don't remember the amount. 3274 32

Q. Did you ever receive any communications from any one requesting you not to do business with D. E. Loewe & Co.? A. Yes, sir, from some union in Danbury.

Q. Do you recall the name of the union? A. I do not.

Q. Do you recall whether it was the Hatter's Union? A. Yes, sir, some Hatter's union.

Q. You mean Danbury, Conn.? A. Danbury, Conn., yes, sir.

Q. Have you that communication? A. No, sir.

Q. Did you receive more than one? A. I received a letter from Danbury and there were two parties that came into the store at 108 and 110 Bush Street. 3275 33

Q. First taking up the letters or printed communications, did you receive more than one? A. One letter.

Q. Do you recall who the letter was sent by? A. Who it was sent by; no, sir.

Q. Do you recall the contents, in a general way? A. Yes, sir.

"Q. Have you any recollection of the date when that letter was received? A. No, sir.

Q. You stated that you were also visited by two men? A. Yes, sir.

Q. What were the names of these gentlemen, if you recall? A. I don't know the names. 3276 34

Q. Would you recognize the names if you heard them? A. Probably.

Q. Was one name Kelly? A. That I would not remember.

Q. Or Hennelly? A. That I would not remember.

Q. Now I will ask you, Mr. Kline what relation, in point of time, the receipt of this letter bore to the visits from these men? A. If I can remember right, I received

3277 the letter in November; these parties visited me in December or in January of the following year.

Q. Do you recall testifying in the case of Martin Lawlor vs. Charles H. Merritt et al. when Mr. Frost here examined you? A. Yes, sir.

Q. Can you state whether this visit and this circular you received was prior to the time you testified? A. Yes, sir.

Q. Will you tell me as nearly as you can how long prior to that time it was? A. That I cannot say exactly.

Q. Do you think it was over a year? A. Probably.

3278 Q. Do you recall the date when you testified? A. I do not.

Q. Do you recall the year? A. No, sir.

"Mr. Frost:

"And the date was stated to witness June, 1905.

"Q. I will ask you not to state, Mr. Kline, whether this visit and this letter were received over a year prior to that date? A. Yes, sir, I remember now; I think it was in 1904 I received the letter.

Q. That was in the latter part of 1904? A. Yes, sir.

Q. What took place in the way of conversation between

3279 you and these gentlemen when they visited you?

Mr. Mulholland:

The same objection and also because it is now shown to be a time subsequent to the date of the commencement of this suit.

Mr. Merritt:

Well, that all straightens out before we get through with.

Mr. Mulholland:

He has not identified them and even prompted by the giving of the names of Kelly and Hennelly he could not say it was those men.

3280 Mr. Merritt:

Your Honor will bear in mind that you will see later that I put a few questions to Mr. Hennelly, and there was full opportunity to take his deposition by the defense at that time and Mr. Kelley the defendant has not given any testimony.

The Court:

I think, in view of all the circumstances you may be permitted to read that.

Mr. Mulholland:

Exception.

Mr. Merritt: 3281

Now he gives the conversation:

"I had bought some goods from D. E. Loewe in September or October of the previous year, and the goods were shipped to me that year. When these two gentlemen called they told me that I was having goods shipped from D. E. Loewe & Co.'s factory, and that if I would continue buying goods from them they would put a boycott on me.

Q. Do you recall whether up to that date Triest & Co. had been put on the unfair list? A. Yes, sir.

Q. They had? A. Yes, sir.

Q. Have you any idea how long prior to that time you 3282
first heard of Triest & Co. being on the unfair list? A. No, sir.

Q. What did you reply to these gentlemen? A. I told them that I would discontinue buying goods from D. E. Loewe & Co.

Q. What led you to comply with their request in that way? A. Well, I didn't care to be put on the boycott list.

Q. Were the goods of D. E. Loewe & Co. satisfactory at that time? A. Very satisfactory.

Q. Was that the only reason you had? A. The only reason, sir.

Q. Will you state for how long a period of time you 3283
refrained from dealing with D. E. Loewe & Co. subsequent to that date? A. I don't remember. I don't know whether we have bought any goods from D. E. Loewe since that date.

Q. You have placed this date, have you not, prior to 1905? A. Yes, sir.

Q. Did you not testify that you bought a bill of a thousand dollars in 1905? A. In 1904.

Q. You think now that that was in 1904, do you? A. Yes, if I can remember aright, 1904 was the year I bought the goods; of course all my records are destroyed and I cannot refresh my memory. 3284

Q. I will ask you this, Mr. Kline, if you discontinued patronizing Loewe & Co. for a period of time immediately following the visits of these gentlemen? A. Yes, sir, I did.

Q. Can you state whether your business with D. E. Loewe & Co. prior to that date had been continuous or whether it had not been continuous? A. Yes, sir, I think it was. We bought goods off them every year—pretty much so.

3285 Q. Have you examined the line of goods manufactured by D. E. Loewe & Co. since that date? A. Yes, sir.

Q. When, if at all, have you made any purchases? A. I think I made some purchases—a small purchase—in 1905; in September, 1905.

Q. Can you state whether you made any in 1906? A. I did not."

I omit the next question:

"Q. Can you give me the reason why you have refrained from patronizing them during this whole period of time?"

3286 Your Honor, I will say that I am omitting the question as to the year 1907, and subsequent, as I understand the gentlemen object to it.

Mr. Beach:

We make the same objection to the question of all other dates subsequent.

Mr. Merritt:

I understand that you objected to 1907, and because of your objection, I left it out.

Mr. Mulholland:

Well, we object to 1906 also.

3287 Mr. Merritt:

I understand, and I didn't leave that out, but I won't put 1907 or 1908 in over your objection.

"Q. Can you give me any reason why you have refrained from patronizing them during this whole period of time? A. Well, it was principally caused on account of this strike—this boycott that I didn't care to put them in, and for other reasons. Some of our men didn't care to sell them on account of these goods being non union.

Q. Are you handling any non union goods at the present time? A. A few of them.

Q. And your men do carry those? A. Yes, sir.

3288 Q. Was anything said between you and those men who visited you, about patronizing non union lines of hats generally? A. No, sir.

Q. Will you state whether or not they asked you to discontinue dealing in all non-union hats? A. No, sir; they only mentioned D. E. Loewe & Co.

Q. I will now ask you Mr. Kline whether the date which marks the end of your more or less continuous patronage of D. E. Loewe & Co. is proximately the date when these men visited you? A. Positively.

Q. I want to refresh your memory in regard to the date when this took place, so I am going to have you glance at a copy of the evidence you gave in the case of Martin Lawlor vs. C. H. Merritt et al. You may read any part of it you care to, but I call your attention particularly to the latter part of page five and the beginning of page 6. 3289

Mr. Frost:

That is with reference to the time you ceased dealing with Loewe & Co.

Mr. Merritt:

I will ask you now after you have examined that testimony, if you can place the year in which you were visited by these men? A. I don't remember if it was in 1903 or 1904; the latter part of 1903 or the beginning of 1904. 3290

Q. But you believe it was one of those years? A. Yes, sir.

Q. You have testified to the purchase of one bill of goods from D. E. Loewe to the amount of about one thousand dollars in the year 1905, I believe? A. Yes, sir.

Q. Can you state whether or not you have made any other purchases from them since the time these men visited you? A. I probably purchased some goods in 1905, I don't remember exactly; I think I did.

Q. I will ask the reporter to read the question to you again. Please listen to it? A. Well, now I can recall it. It was in 1903 and 1904 when this boycott was declared. I think I bought some goods in 1905 from D. E. Loewe & Co.; I am not sure. 3291

Q. Have you any recollection of any other purchases since that time? A. No, sir."

Mr. Merritt:

He was recalled.

Mr. Merritt:

"Mr. Kline you testified that you have been engaged as a wholesaler of hats for about twenty seven years? A. Yes, sir. 3292

Q. I will ask you, based on your experience of twenty seven years in that business, and of your general knowledge of the business, to tell me what in your opinion is the percentage of $18.00 felt hats sold by your house to customers in San Francisco and Oakland? A. Fully 75%.

Q. And I will ask you if you can, in a general way to tell me what proportion of your business is in $18.00 hats to the customers in smaller cities. If you cannot give me any

3293 set figure give me an approximate figure? A. Fully eighty to eighty five per cent.

Q. I will ask you how the conditions in this respect were in 1903 and 1904; were they approximately the same, or was the proportion of $18.00 sales different? A. You mean to say if they were actually as large in proportion?

Q. Yes? A. Yes, sir.

Q. And I take it your business transactions and business experience has covered San Francisco, Oakland, and the country towns in California during a considerable period of years? A. Yes, sir.

3294 Q. During all of the twenty seven years? A. Yes, sir.

Q. You testified that you were visited at one time concerning business transactions with D. E. Loewe & Co., and at that time you ceased purchasing hats from D. E. Loewe & Co. I should like to ask you what was the trend of your business after that date when you ceased dealing with D. E. Loewe & Co.; did your purchases of hats which you sold at $18.00 increase or did it decrease? A. It kept about the same; no decrease or increase; it was about the same percentage right through.

3295 Q. I am not asking for percentage now; I am just asking for the volume of your purchases; whether you sold more $18.00 hats each year, or whether your business in $18.00 hats decreased? A. I should judge it increased somewhat.

Q. I will ask you if you testified why you stopped dealing with D. E. Loewe & Co., and if so what in brief was the reason that you stopped? A. The reason was that I was threatened to be boycotted.

Q. I will ask you, if, in your opinion, you would have continued to have dealed with D. E. Loewe & Co. but for this boycott? A. Yes, sir.

3296 Q. I will ask you what in your opinion would have been the amount of your purchase from D. E. Loewe & Co. after the date of this visit? A. Probably $10,000 to $15,000 than that I had bought.

Q. On what do you base that statement?"

"A. The simple reason was that the goods I had bought from D. E. Loewe previous to the time that I was threatened to be boycotted gave me very good satisfaction and from that I would have increased the business considerably.

Q. I will ask you whether the condition of your business at that time would or would not indicate that you could have disposed of goods in that increased amount. 3297

Q. It would so indicate? A. Yes, sir.

Q. Do you recall there was a boycott on Triest & Co.? A. Yes.

Q. Can you state whether or not that had any effect on your business? A. Yes, sir, it increased my business.

Q. In what way did that take place? A. There were quite a number of customers that Triest & Co. were selling goods to that would not buy from them any more, and gave me the business. 3298

"Q. What do you mean that they gave you the business? A. The customers of Triest & Co."

Now I read the testimony of

JOSEPH BROWN:

Q. "State your name, age, residence and occupation? A. My name is Joseph Brown, age 47; residence 169½ 9th Street, Oakland, occupation merchant.

Q. You have been engaged as a merchant dealing in hats in Oakland for about ten years at least? A. About nine years. 3299

Q. Always under the firm name of Brown & Mangan? A. Yes, sir.

Q. Have you dealt with Triest & Co.? A. Yes, sir.

Q. Were you ever visited by any people asking you not to deal with Triest & Co.? A. Yes, sir.

Q. You do not recall the people's names? A. No, sir.

Q. Did you ever receive any circulars in reference to this matter? A. Yes, sir.

Q. Have you the circulars? A. No, sir.

Q. Do you recall their contents? A. I don't remember. 3300

Q. What reference, if any did they make to Triest & Co.? A. I could not remember what they said at all. I know it meant in reference to buying hats from Triest & Co.

Q. To the best of your recollection, it asks you not to buy hats from Triest & Co.? A. Yes, sir.

Q. Did you ever receive any letter asking you to appear before the Alemeda Trades Council in reference to this matter? A. Yes, sir.

3301 Q. And did you appear? A. Yes, sir.

Q. What seemed to be the reason why they asked you to appear as indicated by the conversation? A. In reference to buying hats from Triest & Co.

Q. They indicated to you that they desired to have you stop patronizing them? A. Yes, sir."

I now turn back to the deposition of

MARTIN TRIEST,

3302 which has been read in part and I begin on page 382 at question 128.

"Q. Can you testify whether or not there was any change in the character of the goods you purchased from D. E. Loewe & Co. from the time before the boycott and the time subsequent to the boycott? A. I could.

Q. Give me the nature of that change? A. That we dropped with very few exceptions the entire line of the $13.50 product while the cheaper grade of hats that we bought of D. E. Loewe were increased."

3303 I want to interpolate here that it appears in the depositions later that the $13.50 hat which he refers to is a hat which is retailed at $18.00. The hat which the retailer pays $18.00 for, and the hat which the retailers are referring to when they say $18.00 hats, means $18.00 a dozen.

"Q. Could you testify when this change took place? A. I should judge at the beginning of the Spring of 1904."

Mr. Beach:

Now, if Your Honor please, I want to renew the objection to the testimony of Mr. Triest as to damages and of customers of Triest, on the ground that Mr. Triest himself says that no change took place in the character of his dealings with

3304 plaintiffs until the spring of 1904.

Mr. Merritt:

Well, you have been offering evidence of that kind yourself.

Mr. Beach:

Of course I have, for you have insisted all along on this coming in and I have had to meet it.

The Court:

Well, that evidence may be taken subject to the limitations that have been stated by counsel and by the court.

Mr. Merritt:

3305 "Q. And was the change more or less gradual or rather abrupt? A. Very abrupt.

Q. I will ask you then what proportion the increase in the purchases of cheap goods from D. E. Loewe & Co. bears to the loss or decrease of purchases in their $13.50 grade. In referring to cheap goods I am including all goods under the $13.50 grade? A. I believe that we purchased in amount as much from Loewe in 1904 as we did previously; but all cheaper lines than his $13.50 grade.

Mr. Beach:

3306 Now, I object again to the testimony of Mr. Triest and his customers on the question of damage, because it appears that the volume of his business was not affected.

Mr. Merritt:

Well, we claim, Your Honor, that they deprived us of the sale of the better grade of hats in San Francisco, and that Triest & Co. made extraordinary efforts and went out into the country towns, to secure an equivalent amount of trade in cheaper goods; that there was no reason why they should not have continued selling the better grade of hats in the same volume that they did the cheaper grades; that we are entitled to the increase of business, and the testimony of the witness as we go on will bear that out. 3307

The Court:

Well, it applies more to the force and weight of the evidence than to its admissibility under the limitations that have been suggested. Proceed.

Mr. Beach:

Exception.

Mr. Merritt:

133. "Then you mean to testify that the decrease in purchase of the $13.50 grade was about the same in dollars and cents as the increase in the purchase of cheaper goods? A. Yes, sir; and I think that the purchases of cheaper goods 3308 then made up the full amount of other purchases of the years previous; in other words I think our buying from D. E. Lowe in 1904 was as much if not more than it was in the previous years; but all on cheaper grades.

Q. Then you think probably that the purchase of cheaper goods from D. E. Loewe & Co. after the earlier part of 1904 and down to the present time is fully as large as the amount of purchases in $13.50 goods prior to the time of the boycott? A. I cannot get that question through my head.

3309 Q. In the course of your duties as manager you stated did you not that you also sold goods? A. Yes, sir.

Q. Are you accustomed to converse with your various customers at different times? A. I am.

Q. Do they give you their reasons why they patronize certain lines of goods? A. They do.

Q. The matters is discussed between you and your customers? A. Absolutely.

Q. Does that apply to most of your customers? A. To customers who come into the store to buy, or whom I might visit.

3310 Q. Does that apply to most of your customers in Oakland and San Francisco? A. Yes, sir, when I call on them.

Q. And if these men refused to buy at any time on any particular visit are they accustomed to give their reasons? A. Yes, sir, when I ask them for their reasons.

Q. And if they transfer their patronage from one line of goods to another, are you accustomed to learn from them the cause of the transfer? A. I did after our boycott, yes.

Q. During the period of the boycott you obtained this information from your customers? A. Yes, sir, continuously.

3311 Q. Did you ever write to any of them asking their reasons? A. I certainly did.

Q. I will ask you why you changed your dealings with Loewe & Co. at the time of the boycott and purchased the cheaper grade of goods instead of the $13.50 goods? A. Because our greatest business on the $13.50 line which we sold at $18.00 was sold to our customers in the larger towns like Oakland and San Francisco, etc., and that entire trade we lost."

"Q. Did you lose that trade at about the time of the boycott? A. We did.

Q. And can you state whether you continued to deal with

3312 any of your former customers here in San Francisco, for instance? A. We did.

Q. And whether any in Oakland continued doing business with? A. Very few.

Q. I will ask you whether or not there was any change in the character of purchase by these customers in San Francisco and Oakland that continued to deal with you? A. There was a big change.

Q. What was that change? A. That I could not sell them any of D. E. Loewe's hats.

Q. I will ask you whether the business of customers 3313
who dealt with you at that time, or any of them decreased or increased at that time? A. None increased; a few decreased, and a great many quit entirely.

Q. You are testifying now concerning the trade in Oakland and San Francisco? A. Yes, sir.

Q. And will you tell me whether there was any change in the character of purchase made by customers outside of San Francisco and Oakland? A. There certainly was in instances.

Q. I will ask you first to name, in a general way, the states and towns where you do business, where you have been 3314
accustomed to sell goods in the past eight years? A. In pretty nearly every city in the states of Oregon, Washington, New Mexico, Arizona, Nevada and Utah.

Q. And you have testified that in some instances there was a change in the character of the purchases made by your customers outside of San Francisco and Oakland? A. Yes, sir.

Q. I will ask what change that was? A. In a great many instances they would not buy anything but union label hats, where heretofore they did not care.

Q. I will ask you again to give the date when all these 3315
changes in the amount or character of your trade took place or began to take place? A. We go East twice a year to purchase—about October and April of each year. In October, 1903, right after the boycott was declared I do not believe that we changed the purchasing of our lines; but when it came to the spring of 1904 we had a great many of Mr. Loewe's better grade of hats on hand, and started then and there, because we were compelled to, not being able to sell them, or gradually"—

Mr. Beach:

"To gradually."

Mr. Merritt: 3316

"To gradually quit entirely his $13.50 lines.

Q. I will ask you, if you can, to state, and if you obtained such information from customers in the course of effort to sell hats for them in the ordinary course of business, why the customers insisted on having none but union label goods? A. I called on the trade in San Francisco and Oakland quite often and at the beginning of the boycott a great many of our customers who were staunch friends of ours told me they could not purchase at all from us, but thought that by purchasing

3317 only union goods that they would have no troubles with the unions; that is if union people demanded them to quit they could show that they were buying only union goods; but in most instances the pressure became so severe that a great many had to quit entirely. In 1904 and 1905 and up to the time of the earthquake I do not believe that we gained 10% of our entire Oakland and San Francisco business that quit us at the time of the boycott.

Q. Among what class of customers do you dispose of the cheaper lines of goods that you are now purchasing from D. E. Loewe & Co. and have been purchasing since the time

3318 of the boycott? A. In the small country towns and in the farming districts where labor unions are not known.

Q. I will ask you whether you had this trade with small country towns and farming districts prior to the time of the boycott? A. We did.

Q. And how do you account for the increased sale of the cheaper lines of Mr. Loewe's goods? A. Because business on this coast starting with 1903 and continuing each year increased, and trade has been so much better that they bought heavier, and we tried to force the sale of Loewe's goods after this boycott.

3319 Q. I will ask you whether the increased sale of cheaper goods of the manufacture of D. E. Loewe & Co. by your house since the boycott, in any way conflicted with the sale of the usual amount of the $13.50 goods?"

Mr. Beach:

I object to that, if Your Honor, please.

Afternoon Session, 2 P. M.

Mr. Beach:

I will state to Your Honor, the ground of our objection is this: The question as to this San Francisco jobber is as to whether or not he could have disposed of the same amount

3320 of higher class of goods which he was accustomed to dispose of before the strike, and at the same time have disposed of the cheaper amount of goods which they afterwards bought subsequent to the strike; and my objection is founded on the proposition that it already appears in evidence that Mr. Loewe was not making the better class of goods after the strike.

The Court:

It also appears in evidence, does it not, that the reason why he stopped making the better or the best articles was because of the strike.

Mr. Beach:

No, sir; because of the incompetency of the workmen he employed subsequent to the strike. 3321

The Court:

Well, that was because of the strike.

Mr. Merritt:

Yes, and Your Honor, I want to call your attention to a point right in that connection in reference to the general claim about that date of October 31st, 1902. Even if the complaint should have the construction which the gentlemen wish to attach to it, which I do not assent to, it seems to me that we are entitled to all the damages which were the natural consequence of crippling our factory up to October 31st, 1902, and those natural consequences are of course continuing for a while thereafter, with the inferior organization of inexperienced men who had to be instructed in the business. 3322

The Court:

Well, that is what I was suggesting that the evidence tends to show. We will receive it.

Mr. Mulholland:

Exception.

Mr. Merritt:

"Could or could not your house have disposed of the amount of $13.50 goods which it was accustomed to buy prior to the boycott and at the same time also dispose of the amount of cheaper goods which it purchased subsequent to the boycott if customers had been disposed to continue buying? A. Certainly; and more than that because business was increasing right along on this Coast. 3323

Q. Will you state whether or not you know of any reason why your house could not have disposed of the combined amount of business—meaning thereby the amount of $13.50 goods that you purchased prior to the boycott and the amount of cheap goods which you were accustomed to purchase subsequently to the boycott if the customers had remained with you." 3324

Mr. Beach:

The same objection, ruling and exception goes to this general line without further interruption I take it?

The Court:

Yes.

Mr. Merritt:

"No other reason whatsoever.

3325 Q. You have testified in a general way, have you not, why these customers in Oakland stopped buying from you? A. Yes, sir.

"Q. That testimony is based on your conversations with them? A. On absolute knowledge.

"Q. I will ask you to state briefly what those reasons are? A. The biggest sale of hats in San Francisco and Oakland among the trade that we had were retailed at $2.50 (that means per hat). "Naturally the biggest per cent of goods bought by our San Francisco and Oakland people would be goods that we sold them at $18 per dozen, and

3326 having lost this business—

"Q. (Interrupting) I asked just why they quit? A. On account of the boycott.

"Q. Do you know any other reason other than the boycott why your house should not have sold the same amount of $13.50 goods during the year 1904 down to the present time than it sold prior to that time, other than the boycott? A. No other reason whatsoever.

"Q. And do you know of any other reason than the boycott why it should not have sold these hats of the $13.50 grade in the same amount as heretofore in connection with

3327 the increased business in cheap hats? A. No reason whatsoever.

"Q. Mr. Triest, what books, if any, have you showing the amount of business that you transacted with particular customers, and when I say you, I mean the house of Triest & Co., during the years prior to the boycott? A. 1900, 1901 and 1902, the entire years.

"Q. You have books showing the business you transacted with customers during those years? A. Yes, sir; I have the ledger.

"Q. I will ask you what books, if any, you have, show-

3328 ing what the proportion of the business you did with respective customers was, in hats manufactured by D. E. Loewe & Co.? A. None.

"Q. Have you any records giving you absolute information on that point? A. No, sir.

"Q. Have you any books showing the information for 1904 and 1905? A. I said no. I said that I have them prior to 1903 and after 1906. In other words, I have my ledger for 1900, 1901 and 1902, and my ledger for 1906, 1907 and 1908, but I have no books from January 1st 1903 to January 1st 1906.

"Q. I will ask you whether you have any information for the years 1900, 1901 and 1902 showing what proportion of the purchases by respective customers were Loewe's goods? A. No, sir. 3329

"Q. Have you any information on that point prior to the year 1907? A. None whatsoever.

"Q. That is, I am referring now to records or books or anything of that kind? A. None whatsoever.

"Q. And I understand that your testimony is limited to records and books, etc.? A. Yes, sir.

"Q. Have you any information for any years prior to 1907 showing what proportion of hats sold to respective customers were stiff hats and what proportion were soft hats; I mean by that, any written records or books of any kind? A. None whatsoever. 3330

"Q. Will you state whether the same is true in reference to straw goods? A. Yes, sir.

"Q. What has become of the records? A. They were all destroyed in the fire of April, 1906.

"Q. I will ask you Mr. Triest, are you familiar in a general way with the work being done by your respective salesmen? A. Yes, sir.

"Q. How many salesmen do you employ? A. About 12. 3331

"Q. Do they report to you? A. Every one of them reports to me personally.

"Q. I will ask you to tell me in a general way what effort has been made by the house of Triest & Co. to dispose of the $13.50 hats manufactured by D. E. Loewe & Co. after the boycott commenced? A. We tried even harder than we ever did, especially in San Francisco and Oakland, where this grade of hat was used mostly, without any success whatsoever.

"Q. What can you state along this line in reference to the substitution of the union hat for the non-union hat of the $13.50 grade? A. What we are selling today at $18 is a union $13.50 hat, but we are not selling as many even of the union hats today as we sold of D. E. Loewe & Company's before the boycott, as a great many of our Oakland and San Francisco customers are still afraid to patronize us. 3332

"Q. I will ask you whether you made this substitution of the union hat for the Loewe hat of the $13.50 grade of your own desire and volition?"

3333 Mr. Merritt:

"A. It was compulsory, for the good of our business.

"Q. I will ask you just what it was that led you to make the substitution? A. Because we could not sell any non-union hats in San Francisco or Oakland, with a few exceptions, and the principal priced hat used in those cities is the $18 hat.

"Q. I just want to know whether you did this at the request of your customers? A. We certainly did.

"Q. When you speak of the $18 hat, I understand you are referring to the $13.50 grade, as far as the manufacturer's price goes? 3334 A. Yes, as we sell all $13.50 grades at $18 in the city and in Oakland. In other words, a hat that costs us $13.50, we pay freight on it and sell them here at $18 a dozen.

"Q. Can you state in a general way what the retailer sells that at? A. $2.50, which is the most popular priced hat in San Francisco and Oakland.

"Q. I will now ask you whether or not you can tell me, based on your own knowledge and experience in connection with the business, what proportion of the goods that you sold to the Oakland trade and the San Francisco trade, before the 3335 date of the boycott, was goods manufactured by D. E. Loewe & Co. and of the price of $13.50? A. 70 per cent."

I will omit this.

"Q. That is your best estimate on the point, is it? A. Yes, sir.

"Q. I will ask you if you can state absolutely that the percentage was no less than that? A. Absolutely more, as I figured it myself.

"Q. Now I am going to ask you on what you base this estimate of 70 per cent, and how you come to that conclusion? A. I took our sales from January 1903 to July 1903 of our salesmen, and figured all $18 goods of lines which were 3336 sold against the full total bills bought in these two cities, and found the percentage to be even more than 70.

"Q. When you referred to the full lines bought, are you including the caps sold by Triest, Rosenberg & Co.? A. I am not.

"Q. I remember some one testifying in the North that the caps purchased by Triest, Rosenberg & Co. also went down on the account with Triest & Co. Will you state whether that is the fact in connection with Oakland and San Francisco? A. No, sir.

"Q. What is the fact in connection with Oakland and San Francisco? A. Oakland and San Francisco bought direct from Triest, Rosenberg & Co., charging it directly through their books. Triest & Co. never sold any caps in San Francisco and Oakland since they opened their factory of the Triest, Rosenberg Cap Company. 5 3337

"Q. About when was that? A. That was away back in 1899 or 1898.

"Q. Then when you are testifying as to 70 per cent of your business with Oakland and San Francisco customers being Loewe's hats of the $13.50 grade, prior to the time of the boycott, I understand that you are not in any way referring to the purchase of caps? A. No, sir. We never figured the purchases of caps because there were no charges for caps; it was simply straw hats, stiff hats and soft hats. 16 3338

"Q. Then the balance was in some way made up of stiff hats, straw hats and soft hats of some other manufacture than D. E. Loewe & Co.? A. Yes, sir.

"Q. You say you made a computation as between what dates? A. January 1903 and July 1903.

"Q. A computation of your sales to the Oakland and San Francisco trade covering that period? A. Yes, sir.

"Q. When did you make that computation? A. I made it in 1905. 17 3339

"Q. Your computation covered the period between January 1903 and July 1903? A. Yes, sir, which was just previous to the boycott.

"Q. And you made this computation in 1905? A. I made this computation in 1905.

"Q. What was the cause of your making it? A. Thinking that I might need it in the suit of D. E. Loewe & Co. versus the California State Federation of Labor et als., but I was never called on for it.

"Q. Were witnesses being examined in connection with that suit at that time? A. At that time, yes, sir. 18 3340

"Q. Is your recollection perfectly clear on the point as to whether that 70 per cent. was the result of your computations? A. Absolutely.

"Q. What led you to take that period? A. Because I had no other period to take. The boycott started in July 1903, and if I had taken it afterwards the percentage would have gone to nothing, so I had to find out before. I might add that I took the same proposition now to see what our business is.

3341 "Q. I will ask you whether you testify that this computation was made for the period immediately preceding the boycott? A. Immediately preceding, yes, sir."

I will skip down to 220.

"Q. In all of this testimony concerning percentages, I will ask you whether you are testifying in dozens or in dollars and cents? A. I am testifying in dollars and cents.

"Q. Have you made any computation to show what percentage of your total business is now the $18 goods?"

I won't take that.

Mr. Merritt:

3342 Now I read question 234.

"Q. The concern of Triest & Co. has sold hats to the M. J. Keller Company of Oakland? A. Yes, sir.

"Q. I will ask you if any change has taken place in the character of their trade at the time of the boycott? A. It has.

"Q. Just when did that change take place, and what was the change? A. Right after the boycott, July, 1903, they changed from non-union goods to absolutely nothing but union goods.

3343 "Q. Was this done at the request of Mr. Keller? A. Yes, sir, at the request of Mr. Keller.

"Q. Did you have any conversation with Mr. Keller concerning this? A. I did, I called on him personally.

"Q. Did you call on him for the purpose of selling goods? A. I called on him for the purpose of selling goods.

"Q. What did he say to you? A. He told me he would continue to buy goods from me, but absolutely nothing but union goods. I thanked him very much for his statement.

3344 "Q. He gave that as a condition of continued patronage? A. Absolutely.

"Q. I will ask you whether your testimony as to 70 per cent. of your trade with Oakland customers prior to the time of the boycott being Loewe's $13.50, is applicable to Mr. Keller? A. Yes, sir.

"Q. That was the case with the concern of M. J. Keller Company, was it? A. Yes, sir.

"Q. Your concern of Triest & Co. has done business, has it not, with J. A. McCormick of Oakland? A. John A. McCormick of San Francisco, yes, sir.

"Q. For how long a period of time, generally speaking? A. For a long period. 3345

"Q. Do you recall the price of hats which constituted the larger part of the purchases of Mr. McCormick? A. Yes, sir.

"Q. What was that price? A. $18.

"Q. And you are referring again to the manufacturer's price of $13.50? A. Whenever I say $18, yes, in this city and Oakland.

"Q. Will you tell me whether or not your testimony as to 70 per cent. of your business with San Francisco customers prior to the time of the boycott in Loewe's $13.50 hats is applicable to Mr. McCormick? A. Yes, sir. 3346

"Q. That was the fact in your business with him? A. Yes, sir, that was the fact. In Mr. McCorimck's case it ran away over 70 per cent.

"Q. What period of time are you testifying to on this 70 per cent.? A. All previous to the boycott of 1903, in Loewe's goods.

"Q. Would you include three years? A. There was no reason for a change; my figuring was only for those six months, the same as you could take my book today. 3347

"Q. To the best of your recollection, I should like to know whether or not the conditions in 1900, 1901 and 1902, and down to the time of the boycott, were the same with reference to the proportion of Loewe's goods sold by you to your San Francisco and Oakland trade? A. They were the same, and gradually increasing in the sale of Loewe's $18 hats.

"Q. Will you tell me whether or not to the best of your knowledge and belief the percentage in 1900 was 70 or less than 70 per cent. or more than 70 per cent.? A. To the best of my knowledge and belief it was 70 per cent. and over. 3348

"Q. Referring to the computations that you made just before the earthquake and fire, which computation covers I understand the first part of 1903, I will ask you whether it was just 70 per cent. or more or less than 70 per cent.? A. It was considerably more than 70 per cent.

"Q. Why did you testify to 70 per cent.? A. Because I wanted to be sure of what I was testifying about.

3349 "Q. Now I will ask you what change, if any, took place in the character of business that you did with John A. McCormick, of this city, at the time of the boycott? A. I believe I already covered John A. McCormick.

"Q. I don't think you testified as to the change, I passed on to some other question? A. Mr. McCormick after the boycott was declared continued to patronize us, but only union goods, until he was forced to quit through the unions.

"Q. Is he dealing with you today? A. He is; buying nothing but union goods.

3350 "Q. Do you recall whether or not Mr. McCormick ever called for Loewe's goods prior to the time of the boycott? A. Not that I remember.

"Q. Do you recall anything about any particular styles made by D. E. Loewe & Co. and sold to John A. McCormick? A. Yes, sir.

"Q. What is that? A. It was a particular style for what they called the tough trade in the union district, and he used quite a few from us until this boycott, when I was compelled to send the sample East and have it copied, from John W. Green in a union hat.

3351 "Q. John W. Green & Co. is a union factory? A. Of Danbury, Conn.; it is a union factory, yes, sir.

"Q. Can you give me any information concerning the amount of business you did with John A. McCormick after the middle of 1904? A. I could not.

"Q. Do you recall whether you were dealing with him when the fire took place? A. Yes, sir.

"Q. You were dealing with him? A. Oh, in 1906? I believe Mr. McCormick stopped sometime in 1905."

I don't claim that last.

3352 "Q. Triest & Co. had sold hats at times, had they not, to Kahn Brothers, McGiffin? A. Yes, sir.

"Q. Is that an Oakland concern? A. San Francisco; it was a San Francisco concern.

"Q. I will ask you now whether your testimony as to 70 per cent. of your business in Oakland and San Francisco prior to the time of the boycott being in $13.50 goods manufactured by D. E. Loewe & Co., is applicable to this concern? A. To every concern in San Francisco and Oakland of the hat dealers that we dealt with, or rather, that dealt with us.

"Q. Do you recall whether or not any change took 3353
place in the character of your business with this house at the time of the boycott? A. They quit buying and bought again, and quit buying and bought again, but only bought really what they had to buy.

"Q. You have had dealings also with Mr. Meussdorffer? A. Yes, sir.

"Q. What is the name of that concern? A. K. Meussdorffer & Son.

"Q. Is that a San Francisco house? A. San Francisco house.

"Q. Do you recall any change in your business re- 3354
lations with this house at the time of the boycott? A. They quit for awhile.

"Q. Could you testify how long they quit? A. No, sir.

"Q. Did you ever have any conversation with Mr. Meussdorffer concerning the matter? A. Yes, sir.

"Q. Was this conversation at about the time that the boycott began? A. It was.

"Q. Were you then attempting to sell him goods? A. I was.

"Q. Did you succeed? A. I think originally we suc- 3355
ceeded, but eventually he quit.

"Q. At the time when he refused can you tell me whether he gave any reason for his refusal? A. He gave me a circular at that time, yes, sir.

"Q. What did he give as his reasons? A. He handed me a circular.

"Q. Would you know that circular if you saw it? A. I think so.

"Q. I show you plaintiffs' exhibit 25 and ask you if you can state whether or not that is the circular he 3356
showed you at the time (handing)? A. That is the circular handed me at that time."

That circular is Exhibit 73 in this case, which has already been offered in evidence and read to the jury, circular from the San Francisco Labor Council addressed to K. Meussdorffer and signed "Respectfully, R. I. Wisler, Secretary San Francisco Labor Council," and requesting a transfer of patronage from Triest & Co.

3357 "Q. What further did he state concerning the reasons why he would not buy? A. He was afraid to buy after receiving a circular of this kind.

"Q. Do you recall how long after that time it was before you sold him again? A. I do not.

"Q. Could you state whether it was six months? A. Oh, it was longer.

"Q. Are you selling him today? A. No, sir; he is out of business since the fire.

"Q. You also sold hats, did you not, to Mr. Cappuro? A. Yes, sir.

3358 "Q. What was the name of that concern? A. J. Cappura & Co., Stockton, California.

"Q. Did you ever try to sell him goods yourself personally? A. I did.

"Q. Do you recall what change, if any, took place in your business relations with him at the time of the boycott? A. I believe Mr. Cappuro quit us entirely.

"Q. Did he ever give you any reasons why he quit? A. He certainly did.

"Q. What were those reasons? A. He was afraid

3359 of being boycotted if he continued to buy.

"Q. What time was it that he gave the reasons as related to the time when he quit buying? A. I should judge that he quit quite awhile before I met him here in San Francisco.

"Q. And when he gave you this reason were you trying to sell him goods? A. Yes, sir.

"Q. Mr. Cappuro testified to having purchased $4.50 worth of goods from you in 1905. Can you tell me what kind of merchandise that represented? A. The $4.50 must have been caps.

3360 "Q. Why? A. Because he never bought a dollar's worth of hats from us from the day that he was afraid to buy up to this day.

"Q. Did you ever do any business with the Estate of F. W. Moore, of San Jose? A. Yes, sir.

"Q. What, if anything, do you recall taking place in connection with your relations with that concern at the time of the boycott? A. A few months after the boycott was declared Mr. F. W. Moore wrote us a letter returning some hats which we had sent him by express."

"Q. What can you state as to the amount of business that your concern has done with this house since the writing of that letter, Exhibit 24? A. We never sold him one dollar's worth of goods since." 3361

"Q. The concern of Triest & Co. has sold hats to C. J. Heeseman of Oakland, has he not? A. It has.

"Q. What change, if any, do you recall in connection with your business with that concern at the time of the boycott? A. They quit us entirely.

"Q. Mr. Heeseman testified to certain purchases made from your house in 1904 amounting, I believe, to in the neighborhood of $700. I will ask you if you have any recollection of those purchases? A. I have. 3362

"Q. And of any facts concerning them? A. That order was placed before the boycott.

"Q. How did that order come to be placed so long before? A. I was over in Oakland and we had our spring line of samples, and I talked Mr. Heeseman into giving me his order.

"Q. Where were they ordered from? A. From New York; manufactured to order.

"Q. I show you Plaintiffs' Exhibit No. 72 and ask you whether you have ever seen that? A. Yes, sir. 3363

"Q. Did you receive that through the mails? A. Yes, sir.

"Q. In the regular course of business? A. In the regular course of business it came to us through the mails."

The exhibit referred to in this deposition as Exhibit 72 is Exhibit 84 in this trial, which is the letter of C. J. Heeseman stating that they regret that they are compelled to discontinue trading, etc. The letter is dated July 30, 1903.

Mr. Mulholland: 3364

We have already saved an exception to that, I think.

"Q. I will ask you if you have any recollection of the goods referred to in that second paragraph of the letter, where he requests you to 'kindly cancel the orders which you now have to fill for us'? A. Yes, sir, that is the order which I just spoke of, the order which arrived in 1904.

3365 "Q. That order was not in fact cancelled, was it? A. Oh, yes; he tried to cancel the order, but we would not accept the cancellation.

"Q. The order was afterwards filled? A. Yes, sir, it was filled; we would not accept the cancellation.

"Q. I will ask you now whether the testimony you have given us as to the 70 per cent. of your business in Oakland, prior to the time of the boycott, being in Loewe's $13.50 goods, is applicable to Mr. Heeseman? A. Yes, sir.

3366 "Q. That is the fact in that case, is it? A. Yes, sir, that is the fact in that case.

"Q. Did you ever have any conversation with Mr. Heeseman as to why he quit? A. I certainly did.

"Q. How did you come to have this conversation? A. I went over to see him after the receipt of this letter.

"Q. To see him for what purpose? A. To try to get him to continue buying from us.

"Q. I will ask you, Mr. Triest, whether during the year 1903 Triest & Co. were selling hats to Mr. Herman Wellisch in San Francisco? A. We were.

3367 "Q. I show you Exhibit 69 and ask you whether you received that letter from him (handing)? A. I did.

"Q. I will ask you whether the year 1903 you sold any hats to M. S. Arndt of Stockton, California? A. We did."

Mr. Merritt:

"Q. And these letters from Mr. Wellisch and Arndt you received through the mails? A. In the regular course of business, through the mails."

"Q. I will ask you whether your concern has done any business with M. S. Arndt & Company since the time of receiving that letter? A. No, sir."

3368 Mr. Beach:

What is the date of that letter?

Mr. Merritt:

November 20, 1903.

Mr. Mulholland:

Save our exception, being subsequent to the date of the writ.

Mr. Merritt:

"Q. I will ask you if your concern has sold hats to Herman Wise of Astoria? A. We have.

"Q. And were you selling them hats in 1903? A. 3369
We were.

"Q. I will show you Plaintiff's Exhibit 19 and ask you whether you received that letter (handing)? A. We did.

"Q. It came to you through the mails? A. Yes, sir, through the mails.

"Q. On or about the date which it bears? A. A few days later.

"Q. Are you doing business with Mr. Herman Wise today? A. We are.

"Q. Can you tell me the amount of that business? 3370
A. I could not offhand.

"Q. This book you are examining is your ledger kept in the ordinary course of business, and a book of original entry? A. Yes, sir. This is posted from the day books. It is the original entry of all merchandise sold to any concern in the country.

"Q. I will ask you whether at the time of the boycott any change took place in the character of business you did with Herman Wise? A. Yes, sir.

"Q. What change was that? A. First of all he cancelled an order which he had placed with our traveler; 3371
secondly, when he did start in buying he demanded only union label goods, while before the boycott he did not care whether they were union or non-union."

"Q. And all the goods you have sold him since that time have been union goods? A. Yes, sir.

"Q. Why have you sold him only union goods? A. Because every order that comes in here is marked 'union goods only.'

"Q. I will ask you what date that change took place? A. September, 1903.

"Q. You also did business with the store of M. Hart 3372
here in San Francisco, did you not? A. Yes, sir.

"Q. How long have you done business with that concern? A. Many years.

"Q. Can you state to me whether or not the testimony you have given as to 70 per cent. of your sales customers in San Francisco and Oakland being $13.50 goods purchased from D. E. Loewe & Company is applicable to Mr. Hart? A. Exactly.

3373 "Q. I will ask you whether at the time of the boycott any change took place in his account? A. It did.

"Q. What was the character of that change? A. Wanting label goods instead of non-union goods.

"Q. Will you state what proportion of non-union goods of this grade you have sold him since then? A. To the present date?

"Q. Yes? A. Very little. I might change that answer; of that particular grade.

"Q. I will ask you to examine Mr. Hart's account for the year 1907 in your ledger?"

3374 I will omit that, your Honor, and I will commence at question 360.

"Q. I will ask you if the concern of Triest & Co. has sold hats to Mr. W. Smith of Oakland? A. We have.

"Q. In a general way, for how many years? A. Many years.

"Q. And I will ask you whether the testimony you have given as to 70 per cent. of the sales to Oakland and San Francisco customers prior to the boycott being in Loewe goods of $13.50 is applicable to Mr. Smith? A. It is, and to every person who has quit us in San Francisco

3375 and Oakland.

"Q. I will ask you whether your concern has done business with E. M. Bernstein? A. We have.

"Q. And during what period of time? A. For many years.

"Q. I will ask you whether in the case of Mr. Bernstein 70 per cent. of the goods furnished to him prior to the boycott were Loewe's goods? A. Yes, sir.

"Q. Of $13.50 grade? A. Yes, sir.

"Q. Have you had any conversation recently with Mr. Bernstein concerning the patronage of your house?

3376 A. I have."

I go to question 370.

"Q. I will ask you whether at the time you sold hats to many customers that you hadn't been selling regularly up to that time? A. Yes, sir, quite a few.

"Q. Can you give me the reason why they purchased from you?"

That relates to what I have omitted, so I will omit that also.

"Q. I will ask you whether the firm of Triest & Co. 3377
has sold hats to Mr. Summerfield? A. Yes, sir.

"Q. What is the name? A. Summerfield & Roman, and Herman Summerfield.

"Q. It was formerly Summerfield & Roman? A. Formerly Summerfield & Roman.

"Q. When did he begin to do business under the name of Herman Summerfield? A. A year or two prior to the fire.

"Q. I will ask you whether Mr. Summerfield's purchases to the time of the boycott were at least 70 per cent. 3378
of Loewe's goods? A. They were.

"Q. Do you recall any change that took place in your business dealings with Mr. Summerfield at the time of the boycott? A. I do.

"Q. Please give them? A. He quit us for awhile, and when he came back he bought absolutely nothing but union-made goods.

"Q. Do you know for how long he quit you? A. I could not say.

"Q. Could you state whether it was as much as six months? A. It was over six months.

"Q. I will ask you, Mr. Triest, what you mean when 3379
you refer to these Oakland and San Francisco customers quitting you for awhile? A. You do not seem to understand that Oakland and San Francisco do not buy like a country town, two or three times a year, but they buy weekly. Our representative will call on them we will say every Monday. They were in the habit of giving their order after their Saturday's business to our people on Monday. After the boycott started our men would call on them in the usual way and would not get any business on Monday. Two weeks would pass by and the 3380
third Monday would pass by, and I would go there and see these people and try and persuade them to come back, and in a great many instances without success. That is where they quit for awhile.

"Q. Did you testify that the goods furnished to Mr. Summerfield since the fire were union goods?"

I will omit that. I will begin with question 396.

"Q. Can you give me the amount of business that you transacted with Summerfield during the year 1902? A. Yes, sir.

3381 "Q. I wish you would? A. $1191.81.

"Q. That is the year 1902? A. Yes, sir.

"Q. I will ask you for the year 1901? A. $336.39. Summerfield & Roman.

"Q. Mr. Triest, you have already testified that the firm of Triest & Co. did business with Kahn Bros. and McGiffin? A. Yes, sir.

"Q. I will ask you how long prior to the boycott they had been customers of yours? A. The old firm of Kahn Bros., and succeeded by Kahn Bros. and McGiffin, for many years.

3382 "Q. I will ask you whether 70 per cent. of the purchases of that concern prior to the time of the boycott, as far back as 1900, were goods of the manufacture of D. E. Loewe & Co. and of the price $13.50? A. They were.

"Q. I will ask you what change, if any, took place in your business transactions with that firm at the time of the boycott? A. They bought on and off. As the labor unions would leave them alone they would come back, but when they did buy they would purchase only union-made hats. I might add that McGiffin, who is in business in this

3383 city today, will purchase nothing but union made hats.

"Q. I will ask you if their account was decreased? A. It was decreased considerably.

"Q. Have you ever had any conversation with him concerning this change in the amount of his business or character of his business? A. I did.

"Q. How did you come to have this conversation? A. I would see these people quite often.

"Q. For what purpose? A. For the purpose of asking them to continue to trade with us, but they received a

3384 circular.

"Q. I will ask you to examine your ledger and tell me the amount of business with McGiffin during the years 1900, 1901 and 1902? A. The business changed hands in March, 1901, and the firm became Kahn Brothers, McGiffin. They purchased from March, 1901, to December 1st, 1901, $2,551.75; and from December 1st, 1901, to January, 1902, they purchased $1,492.50.

"Q. I will ask you whether prior to the boycott the hats purchased by him from you were 70 per cent. goods

manufactured by D. E. Loewe & Co. and of the price of $13.50? A. Yes, sir. 3385

"Q. I will ask you whether the change from non-union to union goods took place gradually or abruptly? A. Abruptly; right after the boycott of 1903.

"Q. I will ask you whether you ever did business with S. Selig? A. Of San Francisco, yes.

"Q. What is the name of their house? A. S. Selig & Brother.

"Q. And can you state whether prior to the boycott they purchased union or non-union goods? A. They never cared. 3386

"Q. Can you testify whether 70 per cent. of their purchases were $13.50 hats manufactured by D. E. Loewe & Co.? A. Yes, sir.

"Q. What change, if any, took place in their business relations with you at the time of the boycott? A. Nothing, with the exception that they continued buying and demanded that we furnish them union labelled goods only.

"Q. I will ask you whether you ever talked with Mr. Selig? A. Very often.

"Q. I will ask you whether you ever discussed the boycott with him? A. I did. 3387

"Q. I will ask you whether or not they ever stopped dealing with you at that time? A. No, sir, not that I remember.

"Q. Has the concern of Triest & Co., or has it in the past sold hats to Albert Elkus of Sacramento? A. Yes, sir.

"Q. Will you give me the name of the concern? A. Albert Elkus.

"Q. I will ask you for how long a period prior to the boycott the concern of Albert Elkus dealt with Triest & Co.? A. For many years. 3388

"Q. Did they ever stop dealing with you? A. Yes, sir.

"Q. At about what time? A. At the end of 1903, I believe.

"Q. Mr. Elkus testified that he bought $12 worth of goods from your house in the year 1905. Can you tell me what merchandise that represents? A. Yes, sir.

3389 "Q. What? A. Caps.

"Q. Why do you know that? A. For a long time after the boycott I was trying to get Mr. Elkus back to us, as his brother ate with me every day. I tried to bring pressure to bear on the brother, as I could do nothing with Albert Elkus to get him back. I at last succeeded in selling him a bill of caps, but never one dollar's worth of hats. Until six weeks or two months ago.

"Q. Did Mr. Elkus ever tell you why he would not purchase goods from you during that period? A. Yes, sir.

3390 "Q. And what was the occasion of his telling you this? A. Several times when I met him here in San Francisco at lunch he said he was afraid to buy on account of Sacramento being a union town, and he was afraid to take any chances.

"Q. I will ask you, Mr. Triest, if the concern of Triest & Co. has ever sold hats to Mr. J. L. Lesser? A. Yes, sir, of Stockton, California.

"Q. Can you tell what time they sold hats to Mr. Lesser in Stockton? A. For about a year.

"Q. Did your concern ever sell goods to 'The Bos- 3391 ton' in Tacoma? A. Yes, sir.

"Q. Will you state whether or not Mr. Lesser is the proprietor of 'The Boston'? A. He was.

"Q. Have you ever sold any hats to J. L. Lesser for his San Francisco store? A. No, sir, not until lately.

"Q. I will ask you to tell me whether any change took place in your business relations with Lesser in connection with 'The Boston' at Tacoma at the time of the boycott? A. Yes, sir.

"Q. What took place at that time? A. He was afraid to buy—" 3392

Mr. Mulholland (Interrupting):

I object to that, except the last clause of it.

Mr. Merritt:

I will take the last clause only. "When he did buy he only bought union goods.

"Q. I will ask you whether you personally ever attempted to sell him any? A. Yes, sir, I called on Mr. Lesser myself at Tacoma.

"Q. Will you state whether or not he purchased from you at that time? A. He did not.

"Q. What reasons did he give for not purchasing goods? A. He was afraid of being boycotted himself. 3393

"Q. I will ask you whether after an examination of your ledger you can give me any figures concerning the amount of business transacted by J. L. Lesser with the concern of Triest & Co. prior to the time of the boycott and at any of these places which I have named? A. At Tacoma, Washington, from August 1902 to January 1903 he bought $537.75. I have no records for Stockton, as I believe he started right after January 1903, and my records for that year were lost in the fire.

"Q. Do you recall what time it was that you attempted to sell him goods in Tacoma as relates to that date, January 1903? A. It was considerably later. 3394

"Q. Do you know whether it was in the same year? A. Yes, sir, it was in the fall of 1903 when I made a visit all over Oregon and Washington.

"Q. Mr. Triest, the concern of Triest & Co. has sold hats, has it not, to S. Dannenbaum & Son, formerly doing business in Vallejo? A. Yes, sir.

"Q. Have you any figures showing the amount of business that they did with you during the years 1900, 1901 and 1902? A. Yes, sir.

"Q. I would like those figures, please. A. 1900 $410.76; 1901 $558.92; 1902 $754.27. 3395

"Q. I will ask you if the concern of Triest & Co. ever did business with J. B. Allen in this city? A. We did.

"Q. Did you ever sell him any hats? A. We did.

"Q. Can you give me the amount of purchases, if any, made by J. B. Allen of Triest & Co. during the years 1900, 1901 and 1902? A. Yes, sir.

"Q. I should like them please. A. 1900 $112.66; 1901 $127.75; 1902 $215.75.

"Q. I will ask you what change took place in your business relations, if any, with J. B. Allen, at the time of the boycott? A. He quit us entirely; it was quite natural he would, he being the president of the local Hatters' Union. 3396

"Q. Did you ever have any conversation with him at that time? A. I did.

"Q. How did you come to have this conversation? A. We sent some hats up there to be renovated and he refused to do it, stating that he was afraid, as Mr. Kelly, who represented the United Hatters of North America, was in his store so much of the time. I told him that I thought it was

3397 very foolish, that it was only taking bread out of his mouth, that I only did this to try him, and that thereafter he could never expect any work from us whatsoever.

"Q. Was anything said about his purchasing hats from you? A. No, sir.

"Q. Did you ever have any conversation with him? A. No, sir, I would never ask him to purchase hats from me from that date on.

"Q. I will ask you Mr. Triest if the concern of Triest & Co. ever sold hats to Pauson & Co.? A. We did.

"Q. And for how long a period prior to the date of the 3398 boycott? A. Quite a number of years.

"Q. Have you any figures in your ledger whereby you could tell me the amount of business that you did with Pauson & Co. during the years 1900, 1901 and 1902? A. Yes, sir.

"Q. I will ask you to give me those figures? A. 1900 $1961.88; 1901 $3369.74; 1902 $4542.08.

"Q. I will ask you Mr. Triest, whether or not any change took place in your business relations with Pauson & Co. at the time of the boycott? A. They did.

"Q. What was that change? A. Pauson quit and 3399 bought again and quit again; but after the visit of Mr. Kelly in July 1903 he would buy nothing but union goods.

"Q. I will ask you how you know that Mr. Kelly visited him in 1902?"

Mr. Beach:

That should be 1903, shouldn't it?

Mr. Merritt:

It should be 1903.

"A. Because Mr. Pauson at that time told me; and in one instance later on wrote me a letter.

"Q. I will ask you how Mr. Pauson came to you to talk to you concerning this matter? A. I went up to see Mr. 3400 Pauson because he refused to give our man an order.

"Q. You went to see him for the purpose of selling him goods? A. Yes, sir. He told me he was afraid and wanted to see what would transpire before purchasing from us.

"Q. That was the time that he told you that Mr. Kelly had called on him?"

I won't claim that.

"Q. Can you give me approximately the date of that? A. July 1903.

"Q. How long after that was it when you next sold goods to Pauson & Co.? A. I guess several months thereafter. 3401 9

"Q. Did you sell him continuously after that date? A. No, sir.

"Q. What interruption, if any, took place? A. I could not tell you.

"Q. Mr. Triest, I will ask you if Triest & Co. had a customer in Oakland by the name of A. Jonas? A. Yes, sir.

"Q. I will ask you how long prior to the boycott Triest & Co. did business with A. Jonas? A. For many years. 3402 0

"Q. I will ask you whether the purchases of A. Jonas prior to the time of the boycott, during the years 1900 to 1902 inclusive, were 70 per cent Loewe goods of the $13.50 grade? A. Yes, sir.

"Q. I will ask you what change, if any, took place in your business relations with this concern of A. Jonas at the time of the boycott? A. He bought so little that it would amount to nothing.

"Q. I will ask you whether or not you ever attempted to sell him any hats at this time? A. I did.

"Q. Did you see him personally for that purpose? A. I did. 3403 11

"Q. Were you successful in selling him any hats? A. I was not.

"Q. What reason, if any, did he give for not purchasing? A. He was very sorry that he could not, but he was afraid.

"Q. Did he state why he was afraid? A. Afraid of being boycotted.

"Q. What kind of business in general did you do with this concern after that date? A. Nothing to speak of until after the fire of 1906."

I will skip down to 507. 3404 12

"Q. Mr. Jonas also testified that he purchased $425 worth of goods from you in the year 1906. Do you recall any circumstance in connection with that purchase? A. Yes, sir.

"Q. Please tell us? A. There were no hats in San Francisco except with our firm, and he was only too glad to be able to get them from us. We purchased them because the market was bare of hats, and when they became plenty

3405 he then went back to the way he was before the fire and after the boycott.

"Q. I do not recall whether I asked you to testify as to what percentage of Mr. Pauson's purchases during the year 1900, 1901 and 1902 were Loewe's goods of the grade of $13.50, and I will ask you what the fact is? A. It was over 70 per cent.

"Q. I will ask you whether the concern of Triest & Co. has ever done business with Schiller & Murtha, of Sandiego, California? A. Yes, sir.

3406 "Q. How long prior to the date of the boycott had you been doing business with them? A. Many, many years, continuously.

"Q. Can you give me the amount of their purchases from the concern of Triest & Co. during the years 1900, 1901 and 1902? A. Yes, sir.

"Q. Please state them? A. From January 1st to December 1st 1900, $1646.44. From that date to December 1st 1901 $1146.70, and to January 1903 it was $790.10.

"Q. I show you a letter purporting to be signed by Schiller & Murtha, and ask you whether you have ever seen that (handing)? A. I have.

3407 "Q. Did it come to you through the mails? A. It came to us through the mails.

"Q. And did the card and circular attached to it come in the same envelope with the letter? A. They did."

Mr. Mulholland:

I think it comes under our general objection.

(Said paper marked Plaintiffs' Exhibit 87).

Mr. Merritt:

"Schiller & Murtha, Corner of 5th and D. streets

"Men's and Youth's Clothing, Hats, Furnishing goods, Suit-cases, Valises, etc.

3408 "San Diego, California, July 10th 1903

"Messrs. Triest & Co.,

San Francisco.

"Gentlemen:

Today we have received the enclosed letter from the San Francisco Labor Council, in which they mention your name not to be patronized. We therefore cancel our order given to Mr. Jesse Triest when down here last. By so doing you oblige,

"Yours truly,

"Schiller & Murtha."

Attached is this card and the circular of the San Francisco Labor Council. 3409

Mr. Davenport:

The card is what?

Mr. Merritt:

I will read the card.

Mr. Merritt:

"Put this in Your Pocket.

"Take a look at it when you are buying a hat, and then take a good look at the hat, and see that the union label of the United Hatters of North America is in it.

"Ask for the Label. 3410

"Don't wear a hat without it. Beware of counterfeit labels. Genuine ones are always sewed in, and they are perforated on the four edges exactly the same as a postage stamp."

On the reverse side is the following:

"Don't buy a hat without the label, and see that it is sewed in. Don't patronize a dealer who has loose labels on hand and offers to put one in your hat."

Then follows the label: "Union label, the United Hatters of North America. Union Made. Registered."

Under the label is the following: 3411

"Loose labels in retail stores are counterfeits."

(Recess five minutes.)

Mr. Merritt:

Just before recess I had read this letter from Schiller & Murtha, and I had also read the card that was enclosed in the letter. I now will read the circular that was enclosed. These are all Plaintiff's Exhibit 87.

Mr. Mulholland:

Our exception goes to all these matters, I understand.

Mr. Merritt:

Yes. 3412

"San Francisco Labor Council, Secretary's Office. Affiliated with the American Federation of Labor.

"San Francisco, July 3, 1903.

"To whom it may concern:

"At a meeting of the San Francisco Labor Council held on the above date, the hat jobbing concern known as Triest & Co., 116 Sansome Street, San Francisco, was declared unfair for persistently patronizing the unfair hat manufacturing concern of D. E. Loewe & Co. of Danbury,

3413 Conn., where the union hatters have been on strike for union conditions since August 20, 1902. Triest & Co. will be retained on the unfair list as long as they handle the products of this unfair hat manufacturing company. Union men do not usually patronize retail stores who buy from unfair jobbing houses or manufacturers. Under these circumstances all friends of organized labor will not buy goods from Triest & Co., 116 Sansome Street, San Francisco.

"Yours respectfully, G. B. Benham, President S. F. Labor Council.

3414 T. E. Zant, Secretary S. F. Labor Council.

W. C. Hennelly, D. P. Kelly, representing United Hatters of North America."

Mr. Davenport:

Mr. Merritt, how far is San Diego from San Francisco?

Mr. Merritt:

San Diego is in the extreme southern part of California, on the Pacific coast, and about 500 miles away; just beyond Los Angeles.

Mr. Davenport:

3415 So that circular dated July 3rd had reached San Diego by July 10th?

Mr. Merritt:

Yes.

"Q. Is the concern of Schiller & Murtha patronizing you today? A. They are out of business.

"Q. When did they go out of business? A. In 1906, I think, or may be a little before.

"Q. Do you recall whether the hats purchased by them between the date of the boycott and the date of this letter," (Exhibit 87 here) "and the date when you went

3416 out of business were union or non union, or both? A. I believe Mr. Schiller wrote us a letter that he wanted only union goods.

"Q. Is your recollection upon that point absolutely clear? A. So far as the letter is concerned, yes.

"Q. I will ask you whether the firm of Triest & Co. had a customer in Colton, California, of the name of G. W. Steck? A. Yes, sir.

"Q. And I will ask you if they were customers of yours prior to the date of the boycott, and if so, how long

prior to the boycott? A. For many years previous to the boycott. 3417

"Q. Can you give me the amount of business which this concern did with Triest & Co. from 1900 to 1902, inclusive? A. I can.

"Q. Give it to me year by year? A. 1900 $705.13; 1901 $928.13; 1902 $1181.76.

"Q. I will show you a letter purporting to be signed by G. W. Steck & Brother and ask you if that ever came into your possession? (handing) A. Yes, sir; it did.

"Q. How did you receive it? A. Through the mail, in regular course of business." 3418

I will omit that.

"Q. Mr. Triest, I show you Plaintiff's Exhibit 1 to 12 inclusive, that was offered in evidence at the taking of depositions in Seattle in this same case, and I will ask you to examine each one of those and state whether or not those ever came into your possession before this time? A. I recall each and every one of them with the exception of No. 7. I never saw that in my life. I never saw that before.

"Q. I will ask you how they came into your possession? A. The ones that I have testified that were in my possession were sent me by mail in the regular course of business." 3419

Mr. Merritt:

I will offer them for identification only at this point. The paper referred to as Exhibit 1 here in the deposition, will be Exhibit 88. (Said letter marked Plaintiff's Exhibit 88 for identification.)

Mr. Merritt:

The paper referred to in the deposition as Exhibit 2, is a letter from the International Brotherhood of Teamsters. (Said letter marked Plaintiff's Exhibit 89 for identification.) 3420

Mr. Merritt:

The exhibit referred to in the deposition as Exhibit 3, is a letter from the Amalgamated Wood Workers International Union. (Said letter marked Plaintiff's Exhibit 90 for identification.)

Mr. Merritt:

The exhibit referred to in the deposition as Exhibit 4 is a letter from the Bakery and Confectionary Workers.

3421 (Said letter marked Plaintiff's Exhibit 91 for identification.)

Mr. Merritt:

The exhibit referred to in the deposition as No. 5 is a letter from the International Union of Steam Engineers. (Said letter marked Plaintiff's Exhibit 92 for identification.)

Mr. Merritt:

The exhibit referred to in the deposition as 6 is a letter from the International Brotherhood of Electrical Workers. (Said letter marked Plaintiff's Exhibit 93 for

3422 identification.)

Mr. Merritt:

The exhibit referred to in the deposition as Exhibit 7, is a letter from the Western Central Labor Union. (Said letter marked Plaintiff's Exhibit 94 for identification.)

Mr. Merritt:

The exhibit referred to in the deposition as No. 8 is a circular of the California State Federation of Labor. (Said circular marked Plaintiff's Exhibit 95 for identification.)

3423

Mr. Merritt:

The exhibit referred to in the deposition as Exhibit 9 is the advertising card of the United Hatters. (Said card marked Plaintiff's Exhibit 96 for identification.)

Mr. Merritt:

The exhibit referred to in the deposition as Exhibit 10 is a letter from the Tacoma Trades Council. (Said letter marked Plaintiff's Exhibit 97 for identification.)

Mr. Merritt:

Exhibit 11 has already been marked in this case as

3424 Plaintiff's Exhibit 68.

The exhibit referred to in the deposition as Exhibit 12 is a letter from Ellis H. Gross. (Said letter marked Plaintiff's Exhibit 98 for identification.)

Mr. Merritt:

Referring to question 545, referring to Exhibit 68 in this case, he says: "I received a great many of these circulars from Washington at the time.

"Q. And in many instances you knew from what customers they came on account of your familiarity with

handwriting either on the envelope or in the letter in the same envelope?" 3425

Mr. Merritt:

"A. I am familiar with it, for a great many were handed me personally by different customers, and others were enclosed in letters received by me from my customstating that they had received them.

"Q. And in many instances you were familiar with the customer's handwriting? A. Yes, sir.

"Q. 556. I will now show you Exhibit 13, which was introduced in evidence at the taking of the depositions at Portland, Oregon, and which has been initialed by Mr. G. C. Mosher, who was then acting as Notary; I will ask you whether you have ever seen any cards like Exhibit 13 (Handing)? A. Yes, sir; when Mr. Hennelly introduced himself on July, 1903, in our office on Sansome Street. 3426

"Q. Did he hand you one of those cards? A. He handed us one by way of introducing himself."

That is the card that has already been marked as Exhibit 64 in this case, and which reads:

"Wiliam C. Hennelly.

"National Advertising Agent and Representative of United Hatters of North America, General Office 11 Waverly Place, New York City." 3427

Mr. Merritt:

"Q. I will ask you, Mr. Triest, if you did business prior to the boycott with N. Schlussel of Astoria?" That is in Oregon. "A. We did.

"Q. Is there anything which you wish to say concerning the nature of the business you were then transacting with them? A. Except that I received a letter and a telephone call from him.

"Q. I show you Plaintiff's Exhibit 14, which was introduced at the time of the taking of the depositions in Portland, and ask you if that is the letter which you refer to? (handing) A. That is the letter I refer to. 3428

"Q. Are you familiar with Mr. Schlussel's handwriting? A. I am, sir.

"Q. Is that his handwriting? A. It is the handwriting that appeared in all his letters written to the firm of Triest & Co., and I answered this and received another letter in reply to my answer at that time.

3429 "Q. I show you a letter which is marked Exhibit 15, which was also introduced during the taking of the depositions at Portland, and ask you if that is the letter concerning which you have last testified as coming in answer to yours? (handing) A. Yes, sir; that is the identical letter."

I don't think we will offer that.

"Q. I see in this Exhibit 15 a reference to a long distance telephone. Do you recall ever having any telephonic conversation of this kind? A. Yes, sir; I testified a minute ago to that.

3430 "Q. In his letter dated September 5, which is Plaintiff's Exhibit 14, he refers to sending you a morning paper. Can you state how near the time of the receipt of that letter you received that paper? A. About the same time.

"Q. Do you recall the name of the paper, or where it was published? A. Astoria, Oregon.

"Q. I will ask you whether you recall receiving another copy of a paper from Astoria shortly after that? A. Yes, sir; about a week later.

"Q. I show you a paper that bears the name 'The Morning Astorian,' and dated September 1903, and I ask
3431 you whether that is the paper you received about a week after? A. Yes, sir.

"Q. Will you state whether or not the title of that paper is the same as the title of the paper you received first? A. Yes, sir; it was the same paper."

I will ask to have this paper marked for identification: Morning Astorian, September 12, 1903. (Said paper marked Plaintiff's Exhibit 99 for identification.)

"Q. I show you Plaintiff's Exhibit 17, which was introduced in the taking of the depositions in Portland,
3432 or was marked for identification, and ask you whether or not you have ever seen that before? A. Yes, sir; I have.

"Q. How did that come into your possession? A. It came in the regular course of business, through the mails.

"Q. Have you ever seen that handwriting before, or after? A. After.

"Q. In what connection? A. In answer to this letter I wrote the Astoria Central Labor Unions a letter, to Mr. H. Knobel, Secretary, explaining our position in

this matter, and received his answer, which is in the same handwriting as this Exhibit. 3433

"Q. And the answer you received was signed by the same man as this paper concerning which you are testifying? A. Yes, sir."

I ask to have this Exhibit 17 marked in evidence.

Mr. Mulholland:

We object to it.

The Court:

It may be admitted.

Mr. Mulholland:

Exception. 3434

The Court:

That is, you claim he is one of the co-conspirators?

Mr. Merritt:

Yes, Your Honor.

(Said letter, with envelope attached, is marked Plaintiff's Exhibit 100.)

Mr. Merritt:

"Astoria Central Labor Union.

"Affiliated with the American Federation of Labor,

"Post Office Box 138.

"Astoria, Oregon, September 20, 1903. 3435

"Messrs Triest & Co., San Francisco, California.

"Gentlemen: At the last meeting of the Central Labor Council of this city we were informed by letter from San Francisco that your firm had been placed on the unfair list for handling unfair goods made by D. E. Loewe & Co., Danbury, Conn.

"I am instructed to inform you that we will use all honorable means to prevent our friends from buying or selling any goods coming from your firm until such time as your firm handles only union made goods, bearing genuine union labels. 3436

"Hoping you will find it to your interest to stop the sale of D. E. Loewe & Company's goods and place yourselves on the list of fair people who only ask for a fair day's pay for a fair day's work, and a fair made hat for a fair price.

"Yours Respectfully, H. Knobel, Secretary."

"Q. I show you Plaintiff's Exhibit 18, which was introduced at the taking of the depositions in Portland, and

3437 ask you whether you have ever seen that before? A. I have.

"Q. How did you come to see that? A. In the regular course of business, through the mails.

"Q. Can you tell whose signature that is that is attached to it? **A. Yes, sir.**

"Q. Whose signature is it? A. Mr. Aaron Fox, of Troutdale, Oregon.

"Q. I will ask you if at the time you received that letter Mr. Fox was a customer of Triest & Co.? A. He was."

3438 Mr. Merritt:

I offer that in evidence. (Said letter marked Plaintiff's Exhibit 101.)

Mr. Merritt:

"Troutdale, Oregon, September 22, 1903.

"Triest & Co., San Francisco, California.

"Dear Sirs: The goods I bought of your Mr. Rosenfeld have arrived; they are unopened. I received two letters from the San Francisco and Portland Labor Unions who informed me that you are unfair to union labor. I bought them on two conditions, one was that they were

3439 to be union goods, and second that you people were O. K. with organized labor, it would be useless for me to place the goods in stock under these conditions. I am very sorry that this has happened, have bought of you for years; will hold these goods at your disposal.

"Yours truly, Aaron Fox."

"Q. How long prior to the receipt of that letter had Triest & Co. been doing business with Mr. Fox? A. A long, long time, regularly.

"Q. I will ask you what took place in connection

3440 with your business transactions with him at the time of the receipt of this letter? A. He returned the goods and did not buy for a long while after.

"Q. Can you give me any reliable information concerning the character of goods purchased by Mr. Fox? A. I could not.

"Q. Could you state what proportion of his business was in felt hats? A. Most of it was soft felt hats.

"Q. Could you state what proportion of it was in union and what proportion was non union hats? A. I could not; I have no idea.

"Q. Will you give me the reasons why you are unable to give this information? A. Because my records were destroyed in the fire of 1906 and I had never sought to find the proportions in an account like this prior to the fire. 3441

"Q. And I understand that in each instance where you are testifying concerning the fire of 1906, you are referring to the fire that grew out of the earthquake that was so destructive through the city at that time? A. Yes, sir; when each and every one of my customers in San Francisco was burned out at the same time.

"Q. I will ask you whether at the time this boycott started Triest & Co. were doing business with Herman Wise of Astoria? A. We were. 3442

"Q. How long prior to the boycott? A. Many years.

"Q. I show you Plaintiffs Exhibit 19 which was introduced at the time of the taking of the depositions in Portland, and ask you whether you have ever seen that before (handing)? A. I have.

"Q. How did that come to your notice? A. In the regular course of business, through the mails."

Mr. Merritt: 3443

I offer that in evidence

Mr. Mulholland:

To which we object.

(Said document marked Plaintiffs Exhibit 102.)

Mr. Merritt:

May I read it?

The Court:

Yes.

Mr. Mulholland:

An exception.

Mr. Merritt: 3444

"Herman Wise.

"The Reliable Clothier and Hatter,

"Astoria, Oregon, September 4, 1903.

"Gentlemen: Your salesman finally came here to take my fall order in September, and at the same time a representative of the Union came also, with the information that you are at war with the unions, and as this is a very strong union town I cannot afford to get myself in trouble with the men; I therefore told Mr. R. your

3445 salesman, not to send the order, but he came back and told me that he had already mailed it, but that he would have it cancelled; however, in order to make sure I also write and state that I cannot use the goods at present; as soon as you settle your difficulty with the labor organizations, I will make it all right with you; when Mr. Martin Triest was in Portland I happened to meet Mr. Louis Krouse, who told me of Mr. T's. visit and that he would be back in Portland shortly, Mr. Krouse told me he would have Mr. T. let me know when next he came back, but Mr. T.
3446 overlooked me entirely and you even did not have a man here all summer.

"Respectfully,

Herman Wise."

"Q. I will ask you to state what change, if any, took place in your business transactions with Herman Wise at the time of the receipt of this letter? A. He cancelled an order he had placed with our traveller and did not buy for quite a while after until I went north myself, and when I persuaded him to again patronize Triest & Co. he told me that it was with the positive un-
3447 derstanding that every hat that would come into his house would have union labels only.

"Q. State whether or not prior to that time you had been selling Mr. Wise union hats, or both union and non union goods? A. Both union and non union goods.

"Q. Can you state in a general way the proportion of union goods and the proportion of non union goods? A. Mostly non union goods. He was one of the accounts that used medium priced goods.

"Q. What do you mean by medium priced goods? A. $18. goods and under.

3448 "Q. And do you mean that the goods you purchased from the manufacture at $13.50 a dozen? A. Yes, and under; from $9. to $13.50 per dozen.

"Q. Can you give me any more definite information concerning the character of his purchases at the time of the boycott or just prior to it? A. In what way?

"Q. You stated that he used a considerable amount of $18. goods? A. No, I could not give you the percentage there.

"Q. I will ask you from what source you obtained the non union goods which you sold at $18. to Mr. Wise? A. D. E. Loewe & Co. 3449

"Q. And why do you sell him only union made goods today? A. Because he demands nothing but union goods.

"Q. I show you Plaintiff's Exhibits 16 and 21, and ask you whether you have seen those before, or similar circulars? A. I have.

"Q. Have you ever seen those? A. I saw Plaintiff's Exhibit 21 before."

"Q. And what do you say in regard to Exhibit 16? A. I received a great many similar circulars." 3450

I will offer Exhibit 16.

(Said paper marked Plaintiff's Exhibit 103.)

Mr. Mulholland:

It is objected to.

Mr. Merritt:

I assure your Honor that before I am through it will be thoroughly identified as a circular sent out by the people it purports to be sent out by. I will defer reading it until later, if you desire.

3451

The Court:

No, you may read it now.

Mr. Mulholland:

An exception:

Mr. Merritt:

"C. H. Gram, President, residence 273 Wheeler Street, Phone Rus 1782.

"Geo. E. Shaver, Secretary-Treasurer, 1020 Commercial Street, Phone Rus 3041.

"J. F. Welch, First Vice President, Astoria.

"W. E. Moran, Second Vice President, LaGrande.

"Wm. Eagles, Third Vice President, Albany. 3452

"Chas. Ward, Fourth Vice President, Montavilla.

"Office of the Secretary

"Oregon State Federation of Labor

"232 Washington Street, Corner Second

"Portland, Oregon, August 21, 1903.

"To Whom it May Concern:

"Both the California State Federation of Labor and the San Francisco Council of Labor have declared unfair the hat jobbing house of Triest & Co., 116 Sansome Street,

3453 San Francisco, California, and 71 First Street, Portland, Oregon, on account of that firm persisting in handling the product of D. E. Loewe & Co., hat manufacturers, of Danbury, Conn., where the United Hatters of North America have been on a strike for fair conditions since August 1902.

"At a meeting of the Portland Federated Trades Council held on the above date the action of the San Francisco Council of Labor and the California State Federation of Labor declaring Triest & Co. unfair was endorsed.

3454 "We therefore beg to inform you that it is the desire of the union men and women in your locality and in the State, that you do not patronize Triest & Co. as long as such firm continues to handle the hats made unfair by the D. E. Loewe & Co. concern.

"Trusting you will withhold your patronage from Triest & Co. until the existing conditions are adjusted, we are,

Very respectfully,

"Portland Federated Trades Council.

"Grant McDonald, Secretary

"Harry Gurr, President.

3455 "Also endorsed by C. H. Gram, President and Geo. E. Shaver, Secretary, of the Oregon State Federation of Labor."

This is the Exhibit which was referred to in the deposition as Exhibit 16.

"Q. Mr. Triest, will you state whether or not at the time of the boycott you were doing business with a concern known as the Lion Clothing Company in Oakland? A. Yes, sir, we were.

"Q. Who was the man you dealt with in connection with that concern? A. Mr. Schwartz.

3456 "Q. What, if any, change took place in your business transactions with that concern at that time? A. Immediately after the boycott he continued to buy, but only union goods."

I don't claim the balance of that.

"Q. I will ask you how you acquired this information? A. By going over there and calling on him, as I did on all the Oakland trade.

"Q. What was the purpose of your visit? A. To try and sell him goods."

"Q. You mean by that that your testimony in reference to 70% of his business being in D. E. Loewe & Company's goods? A. Yes, sir, I mean that 70% of the business was in D. E. Loewe's hats. I might state right here that in giving my testimony heretofore, when counsel inquired of me as to percentages, in each instance I have testified to 70%; I wish to state that my figuring out 70% was based on the full of Oakland and San Francisco business, not on the individual accounts of Oakland and San Francisco business, and that at the time I made the figures, the percentage was over 70." 3457

"Q. I will ask you whether or not in your opinion your testimony on this point in reference to each individual account is correct or not? A. It certainly is. 3458

"Q. Then all you wish to explain is that your computations were made only in regard to the sum total of your business in Oakland and San Francisco? A. Exactly.

"Q. You made no computations for each individual concern? A. I made no computations for each individual concern.

"Q. But to the best of your knowledge and belief, based on your familiarity with the transactions of Triest & Co. with these respective concerns, each one of the concerns which you have testified about bought at least 70% of the goods of D. E. Loewe & Company? A. 70% and more, because the trade which I did not lose was trade that bought cheap goods, like $9. and $12. goods, and when I gave you the figure of 70% in my calculations I figured these cheap goods with the medium priced goods in the totals. I really believe right here that if I had figured the accounts which I have already testified to as being lost to us on account of the boycott, that the percentage would have gone close to 80, if not more than 80%. 3459 3460

"Q. Why have you testified to only 70%? A. Because the figures that I had made figured a little over 70% and I said 70% so as to make it positive.

"Q. I will ask you if at the time of the boycott Triest & Co. were doing business with a concern known as Brown & Mangan in Oakland? A. We were, yes, sir.

"Q. Have you any record showing the amount of business done with them prior to the time of the boycott? A. I have not.

3461 "Q. You must have, Mr. Triest, some general recollection as to the amount of their business? A. I have.

"Q. I will ask you to give me the figure concerning which you would be willing to testify that you did transact that amount of business with Brown and Mangan prior to the boycott? A. Not less than $1200. per year.

"Q. Have you any recollection as to how often they bought? A. Each and every week.

"Q. About how much would a concern like that purchase weekly? A. Sometimes $25., sometimes $50.; therefore, when I say $1200. per year, that would be the

3462 least they would buy.

"Q. Do you recall any change in your business transactions with that concern? A. I do.

"Q. What change? A. Brown & Mangan after July 1903 bought nothing but union made goods.

"Q. Why did they purchase nothing but union made goods? A. Because they would buy nothing else, and I was very glad that they did not quit, as some of the other Oakland accounts did.

"Q. Have you any recollection as to the character of their purchases prior to the time of the boycott? A.

3463 It would come under the main figuring as the Oakland and San Francisco customers.

"Q. To the best of your knowledge and belief 70% of their purchases were Loewe's goods? A. Yes, sir.

"Q. Of the $13.50 grade? A. Yes, sir.

"Q. Are they still purchasing goods of the $13.50 grade? A. No, sir; we are not carrying but one or two lines of Mr. Loewe's $13.50 grade today, as the lines that we are selling are all union made at $13.50.

"Q. That is not exactly my question. I asked if you were still selling $13.50 goods today, either union or

3464 non union? A. Yes, sir.

"Q. But they are entirely union? A. With few exceptions, entirely union.

"Q. At the time of the boycott were you doing business with Mesmer & Smith in Oakland? A. We were.

"Q. Who was the head of that concern? A. Mr. Mesmer.

"Q. Do you know where he is? A. I do not.

"Q. Have you any figures to give me as to the amount of business you were doing with that concern prior to the boycott? A. I have not. 73 3465

"Q. Any records for the year 1902 in that connection? A. None at all, sir. I believe they only started in the year 1903.

"Q. Are you still doing business with them? A. To a very small extent.

"Q. Do you recall any change in your business relations with them at the time of the boycott? A. The account has always been a very small one.

"Q. Will you state whether or not at the time of the boycott you were doing business with the concern of Lillagar & Barkman? A. We were. 74 3466

"Q. Where do they do business? A. Seattle, Washington.

"Q. Can you give me the amount of their account prior to the boycott? A. I can.

"Q. I wish you would give it, please? A. They started doing business with us in June 1901, and bought to December 1, 1901 $345.25. From December 1901 to January 1902 they purchased $1344.75. After that my records are gone. 175 3467

"Q. Do you recall any change in your business relations with that concern at the time of the boycott? A. Yes, sir.

"Q. What change, if any? A. I was in Seattle myself, but previous to being in Seattle this concern wrote us a letter.

"Q. Did they stop doing business with you? A. They did not; from that day to this they are buying union made goods only.

"Q. Why are you selling them only union goods now? A. Because they will not purchase anything but union made goods. 476 3468

"Q. And prior to the boycott did they purchase only union goods? A. No, sir, they purchased non-union goods.

"Q. Can you testify in a general way as to what proportion of their purchases were of non-union goods? A. Pretty near all their purchases were non-union, because their business was in the medium priced goods, which are $12 and $18 per dozen.

3469 "Q. Can you give me any definite figures on that point? A. I cannot.

"Q. I will ask you whether at the time of the boycott you sold hats to LaTouche, in Los Angeles? A. Yes, sir, Mr. T. B. LaTouche.

"Q. I show you a letter purporting to be signed by T. B. LaTouche, and ask you whether you have ever seen that before (handing)? A. I have.

"Q. How did that come into your possession? A. Through the mail, in the regular course of business.

3470 "Q. Are you familiar with the handwriting in that letter? A. I am.

"Q. Whose handwriting is it? A. Mr. T. B. LaTouche's handwriting himself.

"Q. On what do you base that answer? A. On the many letters we received from this party, and the signing of checks, etc.

"Q. I will ask you whether the circular and the card attached to it came into your possession at the same time? A. They did.

"Q. Were they enclosed in the same envelope? A. The same envelope."

3471 I won't offer that until we get to Mr. LaTouche's testimony later on.

"Q. I will ask you to tell me if you can, what was the character of the purchases made by T. B. LaTouche from Triest & Co. prior to the boycott? A. All $18. goods; nothing but $18. goods.

"Q. Of what manufacturer did you purchase those goods? A. All soft goods from D. E. Loewe & Co. of Danbury, Connecticut.

"Q. I will ask you whether at the time of this boy-

3472 cott you sold hats to D. B. Barron & Co.? A. Yes, sir; of Murray, Utah.

"Q. I show you a letter purporting to be signed by D. B. Barren & Co. and ask you whether you have ever seen that before? A. Yes, sir.

"Q. How did it come into your possession? A. Through the mails.

"Q. Can you state whether you received it approximately on the 28th day of September 1903, which is the date noted in pencil at the top of the letter? A. Yes,

sir; I wrote that date there myself upon the receipt of 3473
the letter. That is the day that Triest & Co. received it.

"Q. Is there anything which you desire to say concerning this account? A. Except that we have never sold them since."

(Adjourned to tomorrow morning at ten o'clock.)

Friday, September 13th, 1912. 10:00 A. M. Morning Session.

Mr. Merritt:

I now offer in evidence this letter from D. B. Baron & Co., dated August 28th, 1903, as "Exhibit 104."

(Marked "Plaintiff's Exhibit 104.") 3474

I will read this Exhibit 104.

Mr. Mulholland:

That is taken subject to our general exception to that class of hearsay testimony.

Mr. Merritt:

"The Leader, Ladies and Gents Outfitters, Murray and Bingham Junction—" Utah.

"D. B. Baron & Co.

Messrs. Triest & Co.,

San Francisco, August 28th, 1903.

Gentlemen: We received of the Portland, Oregon, 3475
regarding your hats being of scab labor, and no union label. Same is notified to us from the Federation of Labor. "While purchasing your representative told us that your hats were union made. As we are only in a union town we are obliged to return the goods, as we cannot handle hats especially without the union label.

"Respectfully yours,

D. B. Baron & Co."

Q. I will ask you whether at the time of the boycott you did business with J. I. Isenberg in Santa Barbara?" 3476
Mr. Merritt:

"We did."

Q. Are you familiar with Mr. Isenberg's handwriting? A. I am.

Q. On what do you base that familiarity? A. Upon the many letters we received from Mr. Isenberg in the regular course of business.

3477 Mr. Merritt:

"Q. I will ask you if at the time of the boycott your concern was doing business with P. M. Doyle of Truckee, California? A. Yes, sir.

Q. I show you a letter purporting to be signed by that concern, and I ask you whether you know that signature? A. I do.

Q. Whose signature is that? A. Mr. P. M. Doyle's signature himself.

Q. Why are you able to recognize it? A. From the many letters received from him in the regular course of busi-

3478 ness.

Q. I call your attention to the fact that there is a circular attached to that signed by Daniel P. Kelly and addressed to the Woodworkers No. 187; can you state how that circular came into your possession? A. Yes, sir; it was attached to this letter.

"Q. I show you a printed circular with envelope attached and ask you if you recall ever having seen that before? A. Yes, sir.

Q. Can you state from whom you received that? A. Yes, sir.

3479 Q. From whom? A. From Mr. Myer Cohn of Los Angeles.

Q. Who was Myer Cohn? A. He was a customer of ours in 1903.

Q. How do you know it came from him? A. Because he sent us this circular and envelope; mailed it to our store. It came to us in the regular course of business through the mails.

Mr. Merritt:

I will offer in evidence this letter, which was mailed by Myer Cohn and the enclosed envelope, as "Plaintiff's Exhibit

3480 105."

Mr. Mulholland:

Same objection and same exception.

(Marked "Plaintiff's Exhibit 105.")

Mr. Merritt:

I will state on the record that the circular enclosed with this last exhibit is the same as "Plaintiff's Exhibit 83."

The Court:

Read yesterday.

Mr. Merritt:

The envelope is "San Francisco Labor Council, Secretary's Office, 927 Market Street." Stamped for mailing "San Francisco California Station, August 29, 1903, 3:00 P. M." The address is "Myer Cohn, 523 North Main Street, Los Angeles, California." 3481

"Q. I show you another printed circular and ask you if you ever saw a circular of which that is a copy? A. I have seen similar circulars, yes, sir.

Q. How did you come to see this?? A. It was handed to me by customers and mailed to me."

And I will offer this in evidence as Plaintiff's Exhibit 106. 3482

Mr. Mulholland:

Objected to because of the date.

Mr. Merritt:

The circular is dated July 14th, 1903.

Mr. Mulholland:

Save our exception.

(Marked "Plaintiff's Exhibit 106.")

Mr. Merritt:

"San Francisco Labor Council, Secreary's Office, 927 Market Street, Rooms 405, 406, 407 Emma Spreckles Building, Telephone South, 147. Affiliated with the American Federation of Labor. Meets every Friday at 1159 Mission Street. Address all communications to 927 Market Street." 3483

That is the heading of the paper.

Mr. Merritt:

409. "Messrs.

Gentlemen:

We beg leave to call your attention to the following products which are on the unfair list of the American Federation of Labor.

"We do this in order that you refrain from handling these goods as the patronage of the firms named below is taken by the organized workers as an evidence of a desire to patronize those who are opposed to the interests of organized labor. The declaration of unfairness regarding the firms mentioned is fully sanctioned and will be supported to the fullest degree by the San Francisco Labor Council. Trusting you will be able to avoid the handling of these goods in the future, we are yours respectfully, San Francisco Labor Council G. B. Benham, President, T. E. Zant, Secretary. 3484

"Unfair list.

3485 "Loewe & Co., Danbury, Conn., and Triest & Co., 116 Sansome Street, San Francisco, hat manufacturers; Cluett, Peabody & Co., shirts and collars, Troy, N. Y., and 582 Mission Street, San Francisco, Calif., United Shirt & Collar Co., Troy, N. Y., and 25 Sansome Street, San Francisco, Calif., Vanzant, Jacobs & Co., Troy, N. Y.; Greenbaum, Weil & Michaels, selling agents, 17 Sansome Street, San Francisco, California." Did I read the date of that? The date of this circular I think I read is San Francisco, July 14th, 1903.

Mr. Merritt:

3486 "Can you tell approximately the date when you saw those circulars? A. Some time about two or three weeks after the date of the circular.

Q. That date is July 14th, 1903? A. Yes, sir.

Q. Did you see more than one? A. Of this particular one I saw very few.

Q. I show you "Plaintiff's Exhibit 30" and ask you whether you have ever seen any circulars of which that is a copy? A. I have.

Q. I will ask you what relation in point of time you first began to receive those circulars as compared with the time you

3487 first received the circulars from the San Francisco Labor Council."

I skip 716: "717 Did you see any in 1903? A. Yes, there was a separate one sent out by the California State Federation of Labor in 1903.

Q. A circular of that same general character? A. Yes, sir.

Q. I will ask you whether that is the circular to which you refer? A. It is not. This is one sent out later.

Q. I will ask you whether you saw more than one circular of this same character during the year 1903? A. Yes, sir.

3488 Q. About how many? A. Not as many as I saw from the San Francisco Labor Council; but plenty of them."

I now offer that circular—it has already been offered as "Plaintiff's Exhibit 70":

"Office of California State Federation of Labor affiliated with the American Federation of Labor, San Francisco," and the date written in here: "January 30th, 1904."

Mr. Mulholland:

Taken subject to our exception.

Mr. Merritt: 3489

Yes. But aside from the date the entire circular is printed:

"To the Trades Unionists and public of San Francisco: whereas the United Hatters of North America have been engaged in a struggle for union conditions with the hat manufatcuring concern of D. E. Loewe & Co. of Danbury, Conn., since August 1902, and whereas Triest & Co., hat jobbers of San Francisco are aiding Loewe & Co. to defeat the Hatters' Union by persistently handling the hats made unfair by the Loewe concern, and whereas on July 3rd, 1903, at a regular 3490
meeting of San Francisco Labor Council, Triest & Co. were placed on the unfair list—which action was subsequently endorsed by the Executive Council of this body and by all of the central bodies throughout the state, and whereas Triest & Co. still continue to handle the unfair Loewe hats and using every means in their power to defeat the objects of the San Francisco Labor Council and the United Hatters of North America in their effort to maintain fair wages and conditions; therefore be it resolved that the California State Federation of Labor in convention assembled endorse the action of San Francisco Labor Council and of the Executive Council and of the Central Bodies in the state, and be it further 3491

"Resolved that the Secretary inform the retail hat dealers throughout the state not to expect the patronage of union men and women while they patronize the houses herein declared unfair by organized labor.

"The above resolution was unanimously adopted at the regular convention of the California State Federation of Labor held at Fresno, California, January 4th, to 9th, 1904. In the future organized labor in the state of California will consider that any retail dealer buying goods from Triest & Co. are opposed to fair wages and fair conditions for working men. The 3492
United Hatters of North America only ask of Loewe & Co. that which prevails in over four fifths of the factories in the felt hat industry, namely a fair compensation for labor performed. Over four fifths of the factories engaged in the manufacture of felt hats are union factories, pay fair wages for the making of hats and use the union label of the United Hatters of North America. Harry Knox, President; G. B. Benham, Secretary-Treasurer."

Now we come to page 488, Mr. Beach, question 724.

3493 "Mr. Triest, I show you a letter purporting to be signed by Siegel of Los Angeles, and I will ask you if you have ever seen that letter before? A. Yes, sir.

Q. How did it come into your possession? A. It was mailed to me by Mr. Nate Siegel.

Q. Do you know the handwriting of that letter? A. I do.

Q. Whose is it? A. Nate Siegel.

Q. How do you come to recognize it? A. From the many letters that I have received from."

We won't claim that.

3494 Q. Were Siegel Brothers customers of yours at the time that letter bears date, July 15th, 1903? A. They were.

Q. Did you receive that letter on approximately the date which it bears? A. Yes, sir.

Q. I will ask you if Triest & Co., during the year 1903, had among its customers S. Meyerstein of LaGrande, Oregon? A. Yes, sir.

Q. Have you ever seen Mr. Meyerstein's handwriting?"

Well, I skip that because I won't offer the letter, which will be question 734.

"734. Did Triest & Co. ever do business with A. Sach 3495 & Co. of Fresno, Calif.? A. Yes, sir, we did for many years.

Mr. Merritt:

Do you object to the letter? The date of the circular is August 21st, 1903, but the date of the receipt of the letter is November 2nd, 1903.

Mr. Mulholland:

We object to it for that reason.

The Court:

Now that objection, as I understand it, relates to the subject that we had under discussion the other night after the jury were permitted to retire.

3496 Mr. Mulholland:

Yes, Your Honor, they have been reading quite a number of letters and circulars, as I understand dated subsequent to the commencement of the suit, over our objection and subject to our exception.

The Court:

Well, in the other branches of the case made out by the plaintiff, as I understand the law, the plaintiff is entitled to recover all damages that were occasioned or caused by the defendants on or before the service of process in this case. Sub-

sequent acts by the defendants may be considered by the jury only as the same may show continuing damages growing out of the acts committed prior to the service of process. Now is there any question but what that is the law? 3497

Mr. Beach:

Yes, sir; our contention is that in this case the damages should be limited to the date of the service of the writ, because the gist and foundation of the action is conspiracy, which if it be a continuing conspiracy would entitle the plaintiff to recover in another action brought the next day or the next year for all damages subsequent to the date of the original suit.

The Court: 3498

This evidence, of course, may be admissible as tending to show the existence of a conspiracy at the time of the bringing of the suit; and I had it in mind in looking over the cases, that some parts of this evidence may be admissible as tending to show a continuing damage growing out of the existing conspiracy at the time of the suit. Now, if that is their claim—the court does not care to go any farther in what the plaintiff claims here.

Mr. Merritt:

That is our claim exactly, Your Honor.

The Court: 3499

Then it may be understood now that evidence like this may be received upon those two grounds, that the evidence may affect either one of them.

Mr. Merritt:

I would like to make one disclaimer; that for the purposes of this suit, we do not claim the right to recover damages which arose from wrongful acts done by these defendants after the suit was started.

Mr. Beach:

If Your Honor please, I think I ought to say that while we object upon the issue of damage, to the introduction of any proof of injury continuing subsequent to the commencement of this action, yet inasmuch as the court rules that continuing damage may be proved on the theory that the jury may from the evidence determine that it did result from something which occurred before the suit was brought—that ruling having been made, we claim the right, not waiving our main objection, to offer evidence upon the question of fact as to whether the same kind of torts which are supposed to have injured the plaintiff's business, because they took place before 3500

3501 the action was brought, also went on after the suit was brought, and argue therefrom that the damage was caused by those subsequent acts.

The Court:

There has been no ruling; that is as to the question raised on the declaration day before yesterday.

Mr. Merritt:

I am offering to prove that Triest & Co. received from S. Meyerstein of LaGrande, Oregon, some time in November, 1903, a copy of "Plaintiff's Exhibit 103," which exhibit is dated August 21, 1903, the receipt has been proved and tes-

3502 tified to.

"Q. I will ask you if the concern of Triest & Co. ever have done business with A. S. Barnes of Ashland, Oregon? A. We have.

Q. And were they customers of yours in 1903? A. They were.

Q. I show you a letter purporting to come from this concern and ask you whether you have ever seen that before? A. I have.

Q. How did you receive it? A. Through the mail.

Q. Are you familiar with the handwriting? A. Per-

3503 fectly.

Q. Whose handwriting is it? A. Mr. Barnes' himself.

Q. How did you come to be familiar with his handwriting? A. From many letters received from this man through the regular course of business."

"I show you, Mr. Triest, a considerable number of envelopes addressed to various parties, and I will ask you to examine them and tell me what you can state as to the various parties to which they refer? A. During the boycott a great

3504 many of our staunch customers would send us the original envelope, also the circulars sent them by the San Francisco Labor Council, and I kept them for a long, long while.

Q. I will ask you to examine these envelopes and particularly the names written on them, and state what proportion of them were customers of yours, if any? A. Every single one of them were customers of ours.

Q. And were they customers of yours during the years 1903 and 1904? A. They were.

Q. And can you testify what proportion of those, if any, came to you through the mails? A. All but two came through the mails, the other two were delivered to me. 3505

Mr. Merritt:

Well, now, without offering the envelopes, I would like to read the names and the addresses. There is no objection to that manner of doing it is there?

Mr. Mulholland:

No objection to the manner. Our objection simply goes to the character of the proof and the period covered.

Mr. Merritt:

"San Francisco Labor Council, Secretary's Office, 927 Market Street. K. Meussdorffer & Son, 8 Kearney Street, City." Stamp is September 15th, 1903. 3506

"San Francisco Labor Council, Secretary's Office, 927 Market Street. Cohl Bros, 226 Kearney, City." Stamp "San Francisco, Calif., Station D, July 8th, 1903."

"San Francisco, Calif., Station D, January 26th, 1904," addressed to "Siegel Bros., Los Angeles, Calif."

"Carter & Doffield, Gold Hill, Oregon." stamp is "San. Francisco, Calif., January 30, 1904."

"Goldstein Hat Co., Seattle, Wash." Stamp is "San Francisco, Calif., January 30th, 1904." 3507

"Ornsdorf & Co., Battle Ground, Wash." Stamp is "San Francisco, Cali., January 30th, 1904."

"C. O. D. Store, Fresno, Calif." I don't claim that one.

"San Francisco Labor Council, Secretary's Office, 927 Market Street. W. A. McNamara, Eureka, Calif." Stamp is "San Francisco, Calif., November 16th, 1903."

Mr. Merritt:

"San Francisco Labor Council, Secretary's Office, 927 Market Street. S. Cohn, Bakerfield, Calif." And then Bakersfield crossed off. It has been forwarded to Eureka, Humboldt County. Stamped "San Francisco, Calif., July 8th, 1903." 3508

"San Francisco, Calif., Secretary's Office, 927 Market Street. T. B. LaTouche, 222 West 5th Street, Los Angeles, Calif." Stamped, "San Francisco, Calif., August 22nd, 1903."

"San Francisco Labor Council, Secretary Office, 927 Market Street. Siegel Bros., Los Angeles, Calif." Stamped, "San Francisco, Calif., December 19th, 1903."

3509 "San Francisco, Calif., Secretary's Office, 927 Market Street. Rudolph Anker, San Bernardion, Calif." Stamp, "San Francisco, Calif., December 3rd, 1903."

"Rudolph Anker, San Bernardion, Calif." Stamp, "San Francisco, Calif., January 26th, 1904."

Mr. Merritt:

"Question 815. I will show you another type of circular of the Oregon State Federation of Labor, and ask you if you have ever seen that before? A. Yes, sir.

3510 Q. I will ask you concerning the envelope addressed to Triest & Co. Are you familiar with that handwriting? A. I am.

Q. Whose handwriting is that? A. Mr. Charles Hoggard, of Rufus, Oregon.

Q. How do you come to be familiar with his handwriting? A. From having so much dealings with him, and receiving many letters in the regular course of business through the mail.

Q. I will ask you how that circular and envelope came to your attention? A. Through the mail."

Mr. Merritt:

3511 I will offer that.

Mr. Mulholland:

Subject to our objection.

(Marked "Plaintiff's Exhibit 107.")

It is the same as the exhibit as has already been offered: "Officer of the Secretary of the Oregon State Federation of Labor, Portland, Oregon, August 21, 1903: To whom it may concern. Both the California State Federation of Labor and the San Francisco Council of Labor have declared unfair the hat jobbing house of Triest & Co., 116 Sansome Street, San Francisco, Calif., and 71 First Street, Portland, Oregon, on account of that firm persisting in handling the produce of D. E. Loewe & Co., hat manufacturers, of Danbury, Conn., where the United Hatters of North America had been on a strike for fair conditions since August, 1902.

3512 "At a meeting of the Portland Federated Trades Council held on the above date, the action of the San Francisco Council of Labor, and the California State Federation of Labor, declaring Triest & Co. unfair was endorsed.

"We therefore beg to inform you that it is the desire of the union men and women in your locality and in the state that you do not patronize Triest & Co. as long as such firm con-

tinues to handle the hats made unfair by the D. E. Loewe & Co. concern. 3513:1 7

"Trusting you will withhold your patronage from Triest & Co. until the existing conditions are adjusted, we are, very respectfully, Portland Federated Trades Council, Grant McDonald, Secretary, Harry Gurr, President, also endorsed by C. H. Gram, President and George E. Shaver, Secretary of the Oregon State Federation of Labor."

I don't offer the pencil memorandum at the bottom. The envelope is addressed Triest & Co., San Francisco, Calif." Up in the corner is the date "Charles Hoggard, General Merchandise, Rufus, Oregon," and the post office stamp is "Rufus, Oregon, September 14th, 1903." 3514:2 3

Mr. Merritt:

"Did Charles Hoggard do business at Rufus? A. He did.

Q. Where is Rufus? A. In Oregon.

Q. I will ask you whether the concern of Triest & Co. ever did business with George H. Shearer of Ontation, Oregon? A. We did.

Q. Was he a customer of yours in the year 1903? A. He was.

Q. I show you another circular of the Oregon State Federation of Labor and ask you if you have ever seen that before? A. I have. 3515:3

Q. How did that come to your attention? A. Through the mail.

Q. Do you know who it came from? A. I do.

Q. Who? A. Mr. George H. Shearer.

Q. How do you know it came from him? A. Because he himself wrote at the bottom of the circular and signed his name to it.

What he wrote I won't offer, except to show the date. "Dated Ontario, Oregon, August 29th, 1903." 3516:4

Q. How do you know that Mr. Shearer wrote that? A. Because I know his handwriting.

Q. How do you come to be familiar with his handwriting? A. Having received so many letters from him in the regular course of business."

I will not offer this circular in evidence, but call attention to the fact that it is the same circular that was just read, and it has been marked as "Plaintiff's Exhibit 107."

Mr. Merritt:

3517 "I will ask you if you ever heard of a paper called the Oakland Herald? A. Yes, sir.

Q. I show you what purports to be a part of a page taken from a copy of the Oakland Herald, dated Monday evening, November 23, 1903, and ask you if you have any recollection of having seen that before? A. Yes, sir.

Q. And how did that come to your attention? A. Our cashier brought it to me.

Q. And do you know about what time it was when he brought it to you? A. The next day after it was published, November 24th, 1903.

3518 Mr. Merritt:

"Q. You testified at the beginning of your examination concerning the Bulletin published in San Francisco; I will ask you what you know of the standing of that paper in this city?"

Mr. Mulholland:

Same objection.

Mr. Merritt:

I claim it.

The Court:

Admitted.

Mr. Mulholland:

3519 Exception.

Mr. Merritt:

"It has the largest circulation of any evening paper published in the city and county of San Francisco, and is read all over the State of California.

Q. How do you know it is circulated throughout the State of California? A. Because I have often bought it in interior cities.

Q. Have you ever seen it on the newspaper stands in San Francisco? A. Every news stand in the city and county of San Francisco.

3520 Q. Did the concern of Triest & Co. ever do business with H. Herbing of the Dalles, Oregon? A. Yes, sir.

Q. Were they doing business with that concern in the years 1903 and 1904? A. They were.

Q. I show you a circular purporting to come from the Oregon State Federation of Labor and attached to it a letter addressed to H. Herbing, The Dalles, Oregon, and ask you whether you have ever seen that before? A. I have.

Q. How did it come to your attention? A. It was mailed to us by Mr. Herbing himself of The Dalles, Oregon."

I will offer this in evidence as "Plaintiff's Exhibit 108." 3521
Mr. Merritt:

I call the Jury's attention to the fact that it is the same as Exhibit 107 in this case. That it has attached to it an envelope bearing a printed stamp in the corner "Return to Secretary-Treasurer, Oregon State Federation of Labor, 1020 Commercial Street, Portland, Oregon;" with typographical label. The post office stamp is "Portland, Oregon, August 26th, 8:00 P. M., 1903." It is addressed to "H. Herbing, The Dalles, Oregon."

(Recess fifteen minutes.)

Mr. Merritt: 3522

Reading from Mr. Triest's deposition—I want to state, in connection with these last offered exhibits, that I do not offer any of the pencil memoranda on them, and did not read the pencil memoranda. He identifies the handwriting of Mr. Herbing: "Are you familiar with his handwriting?" (857.)
"A. I am.

Q. Will you say whether you are referring to the pencil memorandum at the bottom? A. Yes, sir.

Mr. Merritt:

These are depositions taken at Los Angeles, September 23rd, 1908: Witnesses were examined and interrogated by 3523
W. G. Merritt, Esq., counsel for plaintiffs, and no one appearing for the defendants.

Mr. Merritt:

"Direct examination by Mr. Merritt, of

J. S. SCHILLER.

"What is your full name? A. J. S. Schiller, San Diego, California.

Q. San Diego, Calif., is your place of residence? A. 3524
Yes, sir.

Q. Age? A. Fifty years— Let me see; I will have to figure that up; yes, fifty years.

Q. Occupation? A. Hatter.

Q. Have you ever been connected—engaged in the business of selling hats, Mr. Schiller? A. Yes, sir.

Q. During what period, please? A. From 1880 'till 1893." I think that should be 1903."

"Q. At what place? A. San Diego.

3525 Q. Under what name did you do business? A. Schiller & Murtha.

Q. I will ask you, Mr. Schiller if during that period you had any dealings with Triest & Co.? A. Yes, sir.

Q. And what was the nature of those dealings? A. Very good, very good.

Q. Did you purchase hats from them? A. Yes, sir.

Q. And will you state, in a general way, whether your relations with them, as relations with business men ordinarily are, were satisfactory or unsatisfactory? A. I found them very satisfactory.

3526 Q. I will ask you whether during this period that you dealt with Triest & Co. you were ever visited by any one asking you not to deal with them? A. Yes.

Q. Do you recall the name of the gentleman who visited you? A. I cannot recall it, no.

Q. Do you recall whom he represented himself to be? A. Yes. The Hatters' Union man.

Q. Do you remember from your conversation with him whether he was a local man or coming from the East; or where he did come from? A. He was sent from the east.

3527 Q. Can you give me any of the conversation that took place between you and him at the time of that visit? A. Yes.

Q. Well, give it, to the best of your recollection.

Mr. Mulholland:

Obection,—exception.

Mr. Merritt:

"The visit that I remember now—he came into my store and told me he was a Hatters' Union man, and mentioned about if I carried union hats; and he said the hats I had in stock were not Union Label Hats. I took down a hat and showed it to him, and I see he was pretty well posted, and I

3528 do not think—well it was not a union made hat, but I thought it was; but it was a Triest & Co. hat. And it was a Triest & Co. hat; then he, in conversation I had with him, told me I should not deal with Triest & Co.

Q. Well, was his request limited to your dealings in non-union made hats with Triest & Co., or did it extend to the hats of non-union manufacturers? A. Yes, every other non-union manufacturer; but he said I should not trade with Triest & Co.; and I told him that my dealings with them for years were always satisfactory; they always did well by me, and I

did well by them; and I said I refused to stop dealing with them. 3529

Q. In the conversation you had with him, did he mention the name of Loewe & Co. of Danbury, Conn., the hat man? A. He said something about non-union, and that some of the factories there not being satisfactory—and one thing and another—I don't remember exactly. The point he brought up was that the hat he took up was a non-union hat, and not being satisfactory; and he mentioned Triest & Co., and his dealings with them, and on account of that I should not deal with them.

Q. You said, Mr. Schiller, that you do not recall the gentleman's name who called on you at that time; I will ask you if you recognize this man (point to Mr. W. C. Hennelly) as the man who called on you? A. No, I do not know. 3530

Q. All right. Do you recall about what time this visit took place? A. No, I do not.

Q. . Do you recall whether or not you ever received any circulars in reference to your dealings with Triest & Co.? A. Yes.

Q. Have you any of those circulars? A. No, I sent them back to Triest & Co.

Q. Do you know what point of time you received those circulars as relating to the date you received this visit from Mr. Hennelly?" 3531

Mr. Merritt:

"Well, I do not know at what time—it seemed to me it was later—the circular was later; I received it later.

Q. Did it come the same year? A. I think it did.

Q. I will show you "Plaintiff's Exhibit No. 75" and attached to it is a circular purporting to come from the San Francisco Labor Council, and a card purporting to be issued by the United Hatters of North America, and I will ask you to tell me whether that is your letter?

Q. I will ask you to tell me if that is your letter? A. Yes, it is my letter. 3532

Q. And you sent that letter to Messrs. Triest & Co.? A. Yes.

Q. I will ask you Mr. Schiller, if you recall whether you enclosed anything to Messrs. Triest & Co. at the time you sent them that letter? A. I enclosed him this circular here from the union. I did not see this card—this card I did not get."

3533 I call the jury's attention to the fact that the circular which he said he enclosed was the circular of the San Francisco Labor Council, which is the same as "Plaintiff's Exhibit 83" in this case.

"Q. I will ask if you recall how that circular came into your possession? A. As near as I can recall it came by mail.

Q. Did you cancel an order with Triest & Co., as stated in this letter? A. Yes, sir.

Q. And why did you cancel it? A. I was a little afraid of—that we did not get as much trade from the unions if I did not cancel it. I then bought a few union hats after that,
3534 which Triest & Co. did not have, and bought aside from Triest & Co. some union hats.

Q. I will ask you whether your relations with Triest & Co. were affected in any other way? A. Always was—until I closed out, my business had been very satisfactory with Triest & Co.

Q. I will ask you if your relations with Triest & Co. were affected in any other way than the mere cancellation of this order by receipt of this circular? A. I did not trade quite as much with them as I did before; and this was the reason—this letter I was looking at, saying that the union
3535 men would not trade with me."

EXAMINATION OF MR. T. B. LaTOUCHE.

of Los Angeles.

"Q. Mr. LaTouche, we want your present residence? A. 2006 South Union Avenue, City.

Q. Los Angeles? A. Yes, sir.

Q. Your age? A. Fifty six.

Q. Occupation? A. Hatter.

Q You mean when you say hatter— A. I mean sell-
3536 ing hats at retail.

Q. And in Los Angeles for one place? A. Yes; 256 South Broadway.

Q. And what other place? A. This is the only place that I am directly interested in; my son is carrying on the same kind of business in San Francisco.

Q. How long have you been in business in Los Angeles? A. Eight years.

Q. Did you ever have dealings with Triest & Co. during this eight years? A. Yes, sir.

Q. And you purchased hats from them? A. Yes, sir. 3537
Q. Were your dealings with them satisfactory? A. Entirely so.
Q. Were you ever visited by any one asking you to discontinue your dealings with Triest & Co.? A. Yes, sir.
Q. Do you remember the man's name? A. It was Hennelly, if I remember right.
Q. And whom did he represent himself to be? A. Why, I don't recall exactly; he claimed to represent only that he was in the interest of the United Hatters of North America.
Q. You mean the Hatters' Union? A. He was pleading their cause—the United Hatters of America—I think that 3538
is the name.
Q. I will ask you what conversation you had, if you recall? A. Well, Mr. Hennelly approached me in a very gentlemanly, smooth and diplomatic manner; his language was rather pleading than threatening; he seemed to be pleading my side of the case, saying that it would be to my interests to cease trading with Triest & Co., and to handle nothing but union made things with the union label on them—consequently, should not buy from Triest, for if I did, I would lose a great deal of trade.
Q. Did he state why you should not trade with Triest 3539
& Co.? A. Because they were dealing with Loewe & Co., and were having trouble with the Hatters' Union.
Q. Was his request not to deal with Triest & Co. limited simply to one house, or did he include others? A. He did not want me to trade with them at all.
Q. Do you recall the date of this visit? A. No, sir; I do not.
Q. Did you ever receive any circulars in this connection? A. Yes, sir.
Q. I will show you Plaintiff's Exhibit 78, which is a letter purporting to come from you, having attached to it two 3540
cards and a circular purporting to have come from the San Francisco Labor Council; I will ask you if that is your letter? A. Yes, that is my letter.
Q. And was that letter written about the date which it bears? A. Why, I think it is probably correct as to date.
Q. The letter went out in the ordinary course of business? A. Yes, sir.
Q. I will ask you to tell me if you can, whether you remember sending those cards or circular letter? A. Yes; yes, sir.

3541 Q. And how did they come to your attention? A. By mail.

Q. You received some circulars of that kind by mail? A. Yes, sir.

Q. Do you recall if this gentleman, Hennelly, who called on you, handed you a card like those attached to that? A. Yes, he handed it to me.

Q. I am referring to the card which bears his name? A. Yes."

And I call attention to the fact that the letters of Mr. LaTouche to Messrs. Triest & Co. are dated July 15th and
3542 16th, 1903, and that the circular which he mailed to Triest & Co. with this letter he testifies to having received, is the same as Plaintiff's Exhibit 83 which has already been read several times. It is the circular of the San Francisco Labor Council bearing the names of W. C. Hennelly, and D. P. Kelly, representing the United Hatters of North America, dated July 3rd, 1903. The card which he refers to is already in evidence, and reads "William C. Hennelly, National Advertising Agent and Representative of United Hatters of North America, General Office 11 Waverly Place, New York City."

3543 "Q. I will ask you to tell me Mr. LaTouche, if you can from memory, what time Mr. Hennelly called—isn't your mind refreshed in that respect at all? A. Well, I think it was about the same time that I was getting those circulars; but whether I got the circulars before his visit or got some circulars after, or got some both before and after that, I couldn't say for sure; it was all about the same time.

Q. Can you testify, to the best of your recollection, that his visit was within three months of the date of that letter." July 15th and 16th, 1903. A. No, I could not say whether it was three months or six months.

Q. And could you testify, to the best of your recollec-
3544 tion, it was within six months? A. Yes, sir; I could say it was."

Now the deposition of

MR. NATHAN SIEGEL,

taken at Los Angeles.

"Q. Give your full name? Nathan Siegel.

Q. Residence? City—Los Angeles.

Q. Age? A. Forty-nine.

Q. Occupation? A. Merchant. 3545

Q. As a merchant, do you deal in hats? A. Yes, sir.

Q. And in Los Angeles? A. In Los Angeles.

Q. How long have you been dealing in hats in Los Angeles? A. Twenty one years.

Q. Under what name Mr. Siegel? A. Partly as Nathan Siegel and other times as Siegel Bros.

Q. How long and for what period of time, in a general way, did you do business under the name of Siegel Brothers? A. The past ten years.

Q. I will ask you during the period you did business under the name of Siegel Bros. you ever had any dealings 3546
with Triest & Co. of San Francisco? A. Yes.

Q. And did you purchase hats from them during that time? A. Yes, sir.

Q. During what portion of that period? A. Continuous.

Q. Continually during the whole ten years? A. Yes, sir.

Q. State if you can whether or not you ever received any visit from any one asking you to discontinue your dealings with Triest & Co.? A. I have received a visit by a
representative of the Federation, requesting me to discontinue 3547
dealings with Triest & Co., as they are an unfair house.

Q. Do you recall the name of the man who visited you? A. Well the name, it came back to me a little while ago—was Hennelly.

Q. To the best of your recollection, the man's name is Hennelly? A. To the best of my recollection the name is Hennelly.

Q. Do you recall whom he represented himself to be? A. He told me he represented the Federation.

Q. Well, was anything said about the hatters? A. The Hatters, he alleged to represent. 3548

Q. You mean he represented the Hatters' Federation? A. Yes, the Hatters' Federation.

Q. Can you give me the date when this took place? A. It is very—impossible to do so, it is so far back.

Q. Was it before or after the earthquake? A. It was before the earthquake, yes, sir; yes, sir.

Q. Do you recall giving an affidavit in the suit brought by D. E. Lowe & Co. against said Federation of Labor? A. No, sir; I have not given any before.

3549 Q. I will ask you to give me, to the best of your recollection, the conversation that took place between you and Mr. Hennelly at the time of this visit. Tell me, please, what seemed to be the object of his visit as indicated by his conversation? A. He told me he was out here investigating the merchants who are handling hats from Triest & Co., as Triest & Co. are an unfair house and handle non-union label goods; and they propose to make a list of those merchants and present their names to the local lodges for them to know who their friends are.

3550 Q. Did he tell you how that would indicate to them who their friends are? A. No, he did not; if he did, I don't remember.

Q. What did you understand? A. I understood it was to be a boycott against the house who handles Triest's goods.

Q. Did you ever receive any circulars from any one through the mail? A. Yes, sir.

Q. In connection with this matter? A. Yes, sir.

Q. Have you any of those circulars? A. No, sir.

Q. You think you can recognize one if you saw one? A. I think I could.

3551 Q. I will show you a circular from San Francisco Labor Council and will ask you if it is a copy of the letter you received, to the best of your recollection? A. Yes, a similar circular.

Q. After the examination of that circular attached to 'Plaintiff's Exhibit 78,' and the date of it, I will ask you if your recollection is at all refreshed as to the time when this visit took place which you received from Mr. Hennelly—I do not care for the exact month? A. I am under the impression, after examining the circular—

Q. Well, can you testify that it was within twelve months from the time you received the circular? A. Oh, yes; it was within that period of time."

3552 And the circular referred to is the same circular of the San Francisco Labor Council, which is "Plaintiff's Exhibit 83" in this case.

"Q. Do you remember whether you received more than one circular? A. I do not.

Q. Do you remember whether you received a circular from the California State Federation of Labor? A. I do not remember.

Q. I will show you a circular and ask if you have any recollection of having received one similar to that? A. I

do not recollect having received any similar to that. We often get circulars of that kind and they are thrown in the waste basket. The only reason I paid any attention to that was that the name of Triest & Co. was attached to that or I would have thrown it in the waste basket. 3553

Q. Did Mr. Hennelly at this time speak generally of what he was doing out here? A. He was speaking in a general way that he was investigating everybody.

Q. Well, did he refer to the City of Los Angeles alone? A. No; he told me he came from San Francisco. He said he did work of that kind in San Francisco.

Q. Did he refer to any other place? A. He told me 3554 he was going to take in the southern district.

Q. Did he specify what he meant by the southern district? A. No; but he came in to see me once, and he went off and then he came back and told me he had been down south for the last few days.

Q. Down south of Los Angeles? A. I guess that is what he meant.

Q. And did he state why he had been south? A. No, he did not.

Q. Did he state whether or not it was in the course of the same business? A. He made no mention of that to me." 3555

Mr. Merritt:

Now I will read the deposition of

GEORGE W. STECK,

taken at Los Angeles at the same time.

"Q. Will you give me your full name? A. George W. Steck.

Q. Your present address, is it in Los Angeles? A. Yes, sir.

Q. And your occupation? A. Why, merchant is 355 my occupation—merchant.

Q. You are a merchant here? A. Yes, I have an interest in Colton Mercantile business.

Q. And your age, please? A. Fifty two.

Q. Now, as a merchant have you dealt in hats? A. Oh, yes; yes, sir.

Q. And what is the name of the firm? A. The firm, you mean?

Q. Yes? A. Colton Grocery Co.

3557 Mr. Merritt:

"Q. And do they do business in Colton? A. You mean at the present time?

Q. Yes? A. No—we are not in the hat business right now. Now? I misunderstood you. My business at the present time is the Grocery Business. We are not in the dry goods, clothing and hat business now. George W. Steck & Bro. is not in existence at the present time.

Q. And when did George W. Steck & Bro. go out of existence? A. Well, let's see—I can't tell you—It was in February, 1906.

3558 Q. And how long was it in existence prior to that time? A. George W. Steck & Bro.? Let's see—as far back as 1900, I think. Now I cannot be sure; but I have been in business ever since 1892, I think.

Q. And during the time that George W. Steck & Bro. was doing business did they ever deal in hats? A. Oh, yes.

Q. During that time did they do business with Triest & Co. of San Francisco? A. Oh, yes, we bought goods right along from them.

Q. During nearly all of that period? A. Yes, sir, 3559 ever since George W. Steck & Bro. were in existence. Yes, sir, I can recall now."

Well, I won't claim the rest of that. That is probably the reason I didn't read it before.

I will turn to the deposition of

WILLIAM C. HENNELLY,

taken at Los Angeles at the same time.

"Q. Your present residence is in this city? A. Yes, 3560 sir.

Q. Your occupation? A. Hatter.

Q. What do you mean by Hatter? A. Manufacturing and retailing.

Q. And your age, please, Mr. Hennelly? A. Over twenty one.

Q. And under sixty five? A. Yes, sir.

Q. How do you—what is the extent of your manufacturing business in hats?

"(Here follows argument between attorney for plaintiff and Edward A. Regan, Esq., who appeared as attorney for Mr. W. C. Hennelly as a witness.) 3561

A. I cannot tell you, just at the present time.

Q. How many men do you employ? A. One.

Q. Do you make hats from the bottom up—out of fur? A. No, from the rough.

Q. In the cone shape or after they are blocked? A. After they are blocked.

How long have you been engaged in the retail ha... business? A. Two years ago last June.

Q. And does the same apply to your manufacturing? 3562
A. Yes, sir.

Q. Are you doing business under your own name? A. Yes.

Q. I will ask you what was your business prior to that date, Mr. Hennelly? A. I represented the United Hatters of North America.

Q. In what capacity? A. As their advertising agent.

Q. Will you give me, in a general way, what period of time you represented them? A. I cannot give you the exact date—say about six years. 3563

Q. That would make it from 1900 to 1906, to the best of your recollection? A. Well, I think it was about that time—probably a year longer.

Q. A year longer? Do you mean a year earlier or a year later? A. I do not know whether it was 1899 or 1900 I went on the road for them; that is not fresh in my mind at present.

Q. Were you a member of the United Hatters of North America at that time? A. Yes.

Q. Besides being advertising agent? A. Yes, sir.

Q. Were you under salary at that time? A. Yes. 3564

Q. During all that time? A. With the exception of about two months that I met with an accident in Boston.

Q. Do you object to stating the amount of the salary? A. We received three dollars per day.

Q. That is the amount of the salary you received from that organization during all that period. A. No, not all that period; the first year or so I think it was less than that.

3565 Q. But with the exception, as you have stated, it was three dollars a day."

No answer.

"Q. Do you recall who was President of the United Hatters of North America at the time you were special agent? A. John A. Moffitt.

Q. And who was the secretary? A. John Phillips part of the time and Martin Lawlor part of the time.

Q. Can you tell me when Mr. Lawlor came into office? A. No, I could not.

3566 Q. Do you know a gentleman by the name of Daniel Kelly? A. Yes, sir.

Q. And when did you first know him, to the best of your recollection? A. About eight years ago.

Q. That places it about 1900? A. About that time.

Q. And did you see him often? A. I saw him at New York at the meeting of the Board of Directors of our organization.

Q. He was connected with the organization? A. Yes, sir.

Q. Do you know in what capacity? A. In the same capacity as myself. The first time I saw him was at the

3567 meeting of the Board of Directors; later he became agent of the United Hatters of North America, acting in the same capacity as myself.

Q. Do you know how much later? A. No.

Q. Could you tell whether he was acting in that capacity in the years 1903 to 1904? A. No, I could not say; I think he was, but I am not certain.

Q. Well, there must be some information by which you can refresh your recollection on that point? A. Three and four? As far as I know he was in their employ at that time.

3568 Q. That is to the best of your recollection? A. Yes.

Q. You remember a strike took place in the factory of D. E. Loewe & Co.? A. Yes, sir.

Q. Could you state whether or not Mr. Kelly was a representative of the United Hatters of North America at that time? A. The two years following the strike?

Q. Yes? A. I think he was; I am not certain.

Q. I will show you "Plaintiff's Exhibit 78" and attached to it is a card which purports to have a label of

the United Hatters of North America. I will ask you if you are familiar with the label that is here? A. Yes." 3569

That is the card that he is testifying about.

(Showing same to the jury.)

"Q. I will ask you if that is a copy? A. Yes, it is a copy.

Q. Can you tell me whether or not that label is controlled by the United Hatters of North America? A. I believe it is; to the best of my knowledge.

Q. Were you ever in the factory of D. E. Loewe & Co.? A. Yes, sir. 3570

Q. More than once? A. I worked there.

Q. Up to what period did you work there? A. It is twenty five years ago. It was then known as the United Hat Company. I guess Loewe & Co. was the proprietor at that time.

Q. Have you been there within the last ten years? A. Have I been in the factory?

Q. Yes?

Mr. Regan:

Wait a minute.

A. No, sir. 3571

Q. Do you know anything, of your own knowledge as to the condition that prevailed there during the last ten years? A. Of my own knowledge?

Q. Yes? A. I have not been personally in the factory within the past ten years.

Q. Is that your handwriting? A. No, sir.

Q. Do you know the handwriting? A. No, sir.

Q. Never seen it before? A. No, sir.

Q. Do you know Mr. Kelly's handwriting? A. I do; I think I do.

Q. You do not think that is his handwriting? A. No. 3572

Q. I will ask you to examine the circular attached to Plaintiff's Exhibit 79."

And I haven't any doubt, Your Honor, that that referred to 78, the same one that he was being examined about.

"And I will ask you whether you have ever seen any circulars of that kind"?

That is this circular here.

3573 Mr. Merritt:

It is "Plaintiff's Exhibit 83" in this case signed by G. B. Benham, President, S. F. Labor Council and containing the name of W. C. Hennelly and D. P. Kelly, representing the United Hatters of North America.

"A. Yes, sir.

Q. I will ask you if you ever had any discussion with Mr. Kelly concerning the subject matter of that circular? I do not mean that the wording of that circular, but concerning the same matter that is referred to in that circular?

3574 Mr. Regan:

Wait a minute. Let me see that circular."

I will state here that the witness's original answer was "No, I never had any discussion with Kelly and then it was changed to "No"—When he came back to sign it, I assume.

Mr. Beach:

"No except in a general way."

Mr. Merritt:

"No except in a general way."

3575 "Q. I will ask you to tell me if you can whether Mr. Kelly was special agent of the United Hatters of North America on July 3rd, 1903, which is the date that circular bears? A. I believe he was.

Q. When was the last time you saw Mr. Kelly? A. '95, I think.

Q. Did you see him during the year 1903? A. Yes.

Q. Where, to the best of your recollection? A. San Francisco.

Q. Do you know what his business was in San Francisco at that time? A. Representing the United Hatters.

3576 Q. And were you there on the same business at that time? A. Yes, sir.

Mr. Merritt:

That is all."

I will not read the depositions of taken at Seattle, Washington on the 8th day of September, 1908.

"Walter G. Merritt, Esq. appeared as counsel for plaintiffs and John K. Beach, Esq. appeared as counsel for defendants, examination of

3577

L. KOHN.

"Q. What is your business, Mr. Kohn? A. I am now superintendent of the Charity Organization society.

Q. Will you give us your age, please? A. Fifty six —no fifty-seven.

Q. You have been engaged in the hat business previous to this time? A. I was, yes, sir.

Q. During what period? A. From right after the fire—must have been '98, I think. I am not certain in regard—well it must have been anyway sixteen years. 3578

Q. 1898? A. I think so; was about '98, wasn't it.

Q. You were in the hat business up to 1906? A. Two years ago.

Q. And for a period of ten years prior thereto? A. Oh, fully; more than that; it was fifteen years.

Q. Were you connected with one concern during all that time? A. Yes, sir.

Q. What was the name of that concern? A. The Goldstein Hat Co.

Q. Where did they do business? A. Located 711 Fist Avenue. 3579

Q. Seattle? A. Seattle.

Q. Are you acquainted with the plaintiffs in this action, D. E. Loewe & Co.?

Q. You don't know any of them? A. No, sir.

Q. You never have seen their factory? A. No, sir.

Q. Are you acquainted with the concern of Triest & Co. of San Francisco? A. I am.

Q. What business relations, if any, have you had with them? A. I was the manager; they had financial interests in the firm.

Q. And your concern bought goods of them? A. 3580 Oh, yes.

Q. During— A. (Interrupting) During the entire period of the existence of the Goldstein Hat Co.

Q. Which was over a period of ten years prior to 1906? A. Fifteen years.

Q. Fifteen years? A. You can safely say that.

Q. When did the Goldstein Hat Co. go out of existence? A. Two years ago. Wilcox & Co. purchased it.

3581 Q. At the time you were connected with that concern just what was your capacity? A. Manager of the concern.

Q. Did you purchase goods for the concern? A. Yes, sir.

Q. Did your concern sell union and non union goods both? A. Both.

Q. Mr. Kohn will you state whether or not during the period you were connected with the Goldstein Hat Co. you at any time were solicited by any one to dis-
3582 continue your patronage with Triest & Co.? A. Yes. I can state that not only from one but different sources that approached me, saying in a sort of a neighborly, friendly way, that it would be a favor to some certain concerns, or we will say unions—and that it would be to my advantage if I would discontinue my trade with them.

Mr. Merritt:

"Did you receive any personal visit? A. Yes, sir; repeatedly.

Q. Do you recall the names of any of the parties? A. No, I don't. There was one eastern representative was in to see me; I don't remember his name—Tilton.

3583 Q. How long ago was it you received these visits. A. Well, that would be guess work, that I can tell you. That would be about five—six years ago, I should judge. Oh, wait a moment—Donnelly, I think was his name. He represented himself as the traveling agent of an Eastern—I think the Federation of the Hatters Unions; something like that.

Q. Let me try to refresh your memory. Would you know whether the name was Hennelly? A. Yes.

Q. That is the name? A. That is the name. I
3584 thought it was Donnelly, but it was Hennelly.

Q. I show you certain circulars here for the purpose of refreshing your memory in regard to the date as to when these visits or solicitations took place? A. You see I didn't take any notice, but kept them filed a good many of them.

Q. I would ask first whether these visits or communications came during practically one period of time? A. Yes, about within a period of six or eight months.

Q. Have you ever seen those before? A. Beg, pardon.

Q. Have you ever seen those letters before? A. Yes. 3585

Q. Look right through them please? A. If you will allow me. Yes, that is correct.

Q. Did those come into your possession? A. Surely.

Q. How did they come to you? A. By mail.

Q. Through the mails? A. Usual channels, yes, sir. I am sorry, but I don't think I could find my replies. In many of them I was indignant about it, and I sent them replies to that effect.

Q. After looking at those circulars what do you wish to say as to the date when you received those circulars? A. Well, it states for itself; the date is right there. 3586

Q. And the visit from Mr. Hennelly came at about that time? A. Just about that time I received a few of these communications from the local unions and then I think in the interim Mr. Hennelly came and a few more came in.

Mr. Beach:

Now, Your Honor, the cross examination and the only reason why I want to read it is to fix the date when those things occurred: 3587

"Q. Mr. Kohn, did I understand you to say that all these transactions took place within a period of six months or so after? A. Thereabout; six or eight months—thereabouts.

Q. Do you know whether any of them took place prior to September 1st, 1903? A. I could not be certain of that Mr. Beach, because the dates I did not retain. I really could not tell, but they were—

Q. (Interrupting) You fix the date from these circulars which have been shown to you? A. Yes, sir." 3588

And then without reading the circulars which were offered in evidence, or copies of them, in the deponent's deposition, I call attention to the fact that one was dated August 16th, 1904; the next one isn't dated; the third August 22nd, 1904; the fourth August 20th, 1904; the fifth August 15th, 1904; the 6th August 28th, 1904; and the seventh September 2nd, 1904.

Mr. Merritt:

I will now read the deposition of

3589

W. E. DAVIS,

"Q. What is your address? A. 917 Pacific Avenue, with the Tacoma Trunk Co.

Q. Give us your age, Mr. Davis? A. Fifty five.

Q. And your business? A. Teamster.

Q. Are you a member of any labor union? A. I am.

Q. What union is it? A. Teamsters Union, International Brotherhood of Teamsters.

3590 Q. What Local? A. What Local?

Q. Yes? A. No. 313.

Q. How long have you been connected with that local, Mr. Davis? A. Well, about five or six years.

Q. Are you a member and also an officer? A. I am an officer.

Q. What office do you hold? A. Secretary.

Q. How long have you been Secretary? A. I am serving the second year.

Q. Is your union affiliated with any other union? A. Yes, sir.

3591 Q. What other union? A. With the Tacoma Central Body.

Q. What is the name of that? A. The Tacoma Central Labor Union.

Q. What is the Tacoma Trades Council? A. That was formerly the Central Body of Tacoma, but it is now out of existence.

Q. When did it go out of existence? A. About six or seven months ago;—eight months ago.

Q. Is the Tacoma Central Labor Council, the successor of the Tacoma Trades Council? A. Yes, sir.

3592 Q. Did it come into possession of all its books and records? A. Why, I presume it would. I am not a member of the Trades Council at the present time.

Q. How is the council made up? A. Of delegates from the various locals.

Q. Do you know approximately the size of it? A. I could not give you much of an idea.

Q. Were you connected in any way with the Tacoma Trades Council? A. I was.

Q. What was the size of that Council when you were connected with it? A. Oh, I suppose we had some fifty or sixty delegates. 3593 301

Q. And how many delegates from each union? A. In the old Council they were graded.

Q. How many unions were represented? A. Our union had three delegates.

Q. How many unions were represented by the Tacoma Trades Council? A. I suppose they was—well I am going back a good ways—it is some four or five years ago that I was connected with it.

"Q. Well, just in a general way? A. I suppose there were probably twenty or twenty five; may be thirty unions. I could not say definitely. 3594 302

Q. What time were you connected with the Tacoma Trades Council? A. I think it was 1904.

Q. Were you an official? A. I was at one time.

Q. What position? A. President.

Q. During what period of time? A. I think it was the last half of 1904, if I am not mistaken.

Q. Does your local teamsters union pay dues to the Tacoma Trades Council? A. We do.

Q. Does the Tacoma Trades Council pay dues to any other organization? A. Pay to the American Federation of Labor. 3595 03

Q. Does it pay dues to any state federation? A. They do—well now, I don't know; they are affiliated. Yes it must be they do. They are affiliated with the State Federation.

Q. Have you ever seen that circular before (showing witness Exhibit 10)? A. I presume I did.

Q. Is that your signature? A. It is my name; I didn't sign it.

Q. Whose signature is that? A. I could not tell you. It looks very similar to the other writing here on the paper. 3596 04

Q. Do you know Mr. Upson's signature? A. No. I don't know as I would.

"Q. Was Mr. Upson secretary when you were President? A. He was, yes, sir.

Q. Did the Tacoma Trades Council send out any circulars of that kind? A. I think they did; I could not say now.

3597 Q. What is the usual order of procedure adopted in taking up a matter of this kind? A. Well, now; what do you mean 'in a matter of this kind?' This appears to be in regard to a firm being on the unfair list.

Q. Did you send out a circular of that kind on your own authority? A. On my own authority?

Q. Yes? A. Oh, no.

Q. How is the matter brought before the council? A. It is done by the order of the organization.

Q. Is it taken up at a meeting? A. Yes, sir.

3598 Q. How is the matter brought to the attention of the Council? A. Well, different ways that it might be brought—might be a report—a verbal report.

Q. Were you present at the meeting of the organization when this matter was discussed? A. A good many of those matters were discussed. I could not say now. I know, of course, that those hats were discussed while I was in that office, but I don't know whether that particular discussion came up—that particularly communication.

Q. You do recall that this matter was brought to

3599 the attention of your council? A. The matter of Triest & Co.?

Q. Yes, sir? A. Yes, the matter was then before the Council.

Q. And during the time that you were acting as President? A. Well, I think it was. I was a delegate, you know, a good while, when I was not President; and various matters have been brought up, and it is hard for me to say positively just when.

Q. You were President on the 15th day of September, the date that is on the circular.

3600 Q. And you recall that some time during your connection with the Council this matter came before the Council? A. Yes, sir."

Mr. Merritt:

I will now read the deposition of

ELLIS H. GROSS.

"Q. Your age, Mr. Gross, please? A. About forty-five."

Mr. Davenport: 3601
"Fifty-five."
Mr. Merritt:
"Fifty-five."

Q. Your business? A. I am in business, yes, sir.

Q. What kind of business? A. What they call regular clothing business—clothing business, furnishing goods, hats, etc.

Q. Do you sell hats today? A. Oh, yes.

Q. How many years have been you been dealing in hats? A. It is quite a good many years all right; I don't exact but it might be 28 or 30 years, something like that. 3602

Q. In the years 1903 and 1904 what was the name of the concern with which you were connected? A. It was a corporation; it was Ellis H. Gross Co.

Q. Where did that concern do business? A. Tacoma, Washington.

Q. And just what was the period of time during which it did business in Tacoma; in a general way, how long was that concern in business in Tacoma and during what years? A. I think I started under that name in 1897—I believe.

Q. And continued under it until when? A. Well, that name was given up, about,—might be four or five years ago. 3603

Q. Four or five years ago; you were still doing business under that name in 1904? A. Yes, I must have; I must have. Yes; I must have.

Q. Did that concern purchase hats from Triest & Co.? A. Yes.

Q. What were the hats, union, or non union? A. They were union hats.

Q. Any non-union hats? A. Not any non-union hat —what I can remember now.

Q. Do you know the difference between a union and non-union hat? A. Well, sir; when I see the mark I can tell. 3604

Q. What do you mean by the mark? A. Well, I can see the label.

Q. Do you know the union label? A. Practically I do—I ought to know.

Q. I ask you to look at that and state whether that is a copy of the union label used in hats? A. It looks something like it.

3605 Q. But you can't state whether or not it is? A. Well, I could not state exactly whether it is or not.

Q. Did your concern purchase hats constantly from Triest & Co. during the period in which it did business? A. I think in the beginning I purchased some hats at other places too but principally I purchased from them. But the later years I think I purchased all from them.

Q. Purchased all your hats? A. The later years.

Q. And you were purchasing from them up to the time that your concern went out of business? A. At that time, yes, sir.

3606 Q. Will you state whether or not during the years 1903 or '04 you received any visits from any people or any communications asking you not to purchase from Triest & Co.? A. Yes, sir.

Q. What personal visit did you receive, if any? A. Well, I received a personal visit that I should not buy any hats of Triest on account of not having the union label.

Q. Do you recall the name of the man who visited you? A. I can't recall it right away.

Q. Would you recognize his name if you heard it? A. I think I would.

3607 Q. Was the name Hennelly? A. Yes, I am pretty sure it was Hennelly.

Q. About what time was it when this man visited you? A. Well, I can't recollect.

Q. In a general way, during what years? A. Well, it was at the same time when I received the circulars."

(Recess until 2:00 P. M.)

Afternoon Session, September 13, 1912.

Mr. Merritt:

(Reading from deposition of Ellis H. Gross.) "Q. Do you remember whether that circular was sent at about the time

3608 Mr. Hennelly called? A. I received circulars about that time when Mr. Hennelly called, and he asked me if I had received circulars, so I guess it must have been that kind of a circular, because he asked me about a circular.

"Q. You received more than one? A. I received more than one circular.

"Q. Have you any of these circulars left in your possession? A. I have not, no, sir.

"Q. Will you look at this end and state whether you received any circular like that (handing paper to witness)—

do you remember receiving a circular? A. Yes, I remember receiving a circular something like that. 3609

"Q. Do you remember receiving a circular from the Washington State Federation of Labor? A. Something like that, yes.

"Q. Do you remember the signatures, the names of the men? A. Well, I know one man personally, this one I know personally.

"Q. Mr. James Menzies you knew personally? A. Yes.

"Q. And you remember that his name was stamped on the circular you received? A. Well, that—I see something like that. 3610

"Q. You have read the whole circular? A. I have read the whole circular.

"Q. And the circular you received— A. (Interrupting.) Is something like that. I remember I read it and it was something of that nature.

"Q. That circular, Mr. Gross, is dated September 17, 1903. Do you remember whether or not you received circulars during that year—1903? A. (No response.)

"Q. For the purpose of refreshing your memory, I will show you a letter and ask you whether that is your handwriting and your signature (handing paper to witness)? A. The signature is mine, but the writing is not mine; my clerk has written that, which I told him to write. I remembered I told him to write that letter, but the signature is mine. 3611

"Q. The letter was written for you? A. The letter was written for me; yes, sir.

"Q. And signed by you? A. The signature is mine; yes, sir.

"Q. After reading that letter, will you state whether or not you received a visit from a representative of the Hatters' Union before the date of that letter? A. Yes, sir." 3612

The date of this letter to which he refers is October 5, 1903.

"Q. Do you remember the name of that representative? A. Well, that is the one what you spoke of before—Hennelly.

"Q. Hennelly. You only received one visit from Mr. Hennelly? A. Only one visit that day, but I think he was around the second day, too, but practically one visit.

3613 "Q. Will you state what conversation took jplace between you and Mr. Hennelly at that time? A. Well, he asked me—I don't know exactly what wording he used, but I think he said, 'I guess you have received a circular'—he represented himself who he was and he said, 'I guess you have received a circular.' I told him 'Yes.'

"Q. Is that the character of circular referred to, the one you looked at before (handing paper to witness)? A. That is correct, yes; that is something like that."

The circular he refers to is Plaintiffs' Exhibit 68, which has already been read. It is the circular from the Washington
3614 State Federation of Labor, I will read it in a few minutes in another connection.

"Q. What other conversation did you have? Was there any mention made of Triest & Company? A. Yes, he started talking about Triest & Company and keeping non-union hats, buying of Triest & Company and I should not buy them.

"Q. Did his request not to buy apply to union or non-union or both? A. Both. He said not to buy of them at all.

"Q. Did he give any reasons for it? A. Well, he
3615 started talking. I told him I had all union hats. Well then he said some hats were even marked union hats and they are not union. Well, I told him 'That is more than I can tell, more than they have got union label; and he examined them and found them all right, but at the same time he says, 'As long as he buys of that factory'—what do they call it, Loewe or what?—'and Loewe don't hire union men.' I should not buy of Triest.

"Q. Did he make any statement to you as to what would be the result if you continued to buy of Triest? A. He said I will be boycotted.

3616 "Q. Did Mr. Hennelly hand you any circulars at that time? A. I am pretty sure he did.

"Q. Do you recall the nature of the circular—have you any of these circulars? A. I have not got any circulars at all.

"Q. Do you recall the nature of them? A. If I would see them I would.

"Q. (Handing paper to witness.) Mr. Gross, can you state whether you received any circular headed by the name 'California Federation of Labor?' A. That I remember.

"Q. And did such circular refer to Triest & Company? 361
A. I received quite often circulars, but to remember exact it is the California State Federation of Labor or something of that kind, that would be impossible to say, as far as that is concerned; but in regard to having received these, I received quite often circulars about the hats, about Triest, but as to exactly the wording of it, what it was, that would be impossible.

"Q. But you state you did receive a circular purporting to be from the California State Federation of Labor?"

Then there is an interruption.

"Q. It would be impossible to say the heading—what it 361
was.

"Q. Your relations with Triest & Company, what were they, satisfactory? A. They were satisfactory.

"Q. And you continue to buy hats from them? A. Oh, yes, I still buy hats from them off and on.

"Q. Did Mr. Hennelly hand you any card showing who he was? A. Yes, he handed me a card.

"Q. Have you that card? A. I have not got that card, but he handed me this—a matchbox; that I have got, (producing).

"Mr. Merritt:

I introduce the writing on the matchbox in evidence, 361
reading as follows, on one side:

'Compliments of the United Hatters of North America. Genuine labels are sewed in the hat under the sweatband and are perforated on edges like postage stamps. Ask for it.'

"And reading on the other side as follows:

" 'Buy no hat without this label.' (Here follows repre-'sentation of Hatters' label.)

"Q. Did Mr. Hennelly hand you any card in addition to this match box? A. He handed me a card when he came in.

"Q. Have you got that card? A. No, sir.

"Q. Do you think you might recognize it? A. I don't 362
know, I am sure.

"Q. I will show you that (handing). A. I don't know whether I could recognize it or not.

"Q. You could not say? A. I could not say.

"Q. Who did Mr. Hennelly represent himself to be? A. Well, the representative of that body.

"Q. What body? A. From the union—from the—I don't know what they call it—the federation from the whole United States, or something of that nature, something like

3621 that. He represented himself to be for the union label or for the Hatters' Union.

"Q. He represented himself to be from some Hatters' Union? A. From the Hatters' Union, yes.

"Q. Can you state how many circulars of this general character you received in all? A. I can't state, no, sir.

"Q. You haven't any idea? A. Well, it is pretty hard to say.

"Q. Well, can you state whether or not it was a considerable number or just two or three? A. Oh, I received more than two or three, as far as that is concerned, but that
3622 would be all I could say.

"Q. You are doing business in Seattle now? A. I am doing business in Seattle now.

"Q. You are no longer doing business in Tacoma? A. No, sir."

Mr. Mulholland:

Omit the cross examination.

Mr. Merritt:

Then I will read the deposition of

JAMES MENZIES,

3623 also taken at Seattle.

"Q. What is your name? A. James Menzies.

"Q. State your age? A. 43.

"Q. What is your business? A. I am in the clothing business.

"Q. You are a union man? A. Not just now, no sir.

"Q. You have been connected with some labor organization? A. I was, yes, sir.

"Q. What organization was that? A. I was affiliated
3624 with the Clerks' union as a clerk, and I was also secretary at one time of the State Federation of Labor.

"Q. Is the title of that organization the Washington State Federation of Labor? A. Yes, sir.

"Q. What was the title of the Clerks' union? A. International Retail Clerks' Protective Association, I think that is it now, I am not quite positive.

"Q. What was the local number? A. That was long ago, I think it was number 167, but I really could not say now. I think that is it to the best of my knowledge and memory.

"Q. During what period of time were you connected with the Washington State Federation of Labor? A. I think 1903, 1904, 1905 and 1906, or 1904, 1905 and 1906. 3625

"Q. In what capacity were you connected with it? A. Secretary.

"Q. Is the Washington State Federation of Labor an organization of delegates from other unions? A. No.

"Q. What is its organization? A. It is an organization where each of the unions of the State, those that wish to, can affiliate with the organization.

"Q. And it has no other membership except the membership of the different constituent unions? A. Yes, sir. 3626

"Q. But it has its own officials? A. It has its own officials.

"Q. Was the retail clerks' union affiliated with the Washington State Federation of Labor? A. Yes, sir.

"Q. I show you Plaintiffs' Exhibit 11 and ask you to read it and tell me whether or not you have ever seen it or a copy of it? A. Yes.

"Q. Did the Washington State Federation of Labor send out circulars of this kind? A. They certainly did.

"Q. To whom? A. They were sent to unions affiliated with the State Federation of Labor. 3627

"Q. Were they sent to any one else? A. No, sir.

"Q. Were they placed in the hands of any one to send to some one else, as far as you know? A. No, sir."

The Exhibit referred to in the deposition as Exhibit 11 is Plaintiffs' Exhibit 68 in this case.

"Washington State Federation of Labor.

"Tacoma, Washington, September 17, 1903.

"To Whom it May Concern:—

"Both the California State Federation of Labor and the San Francisco Council of Labor have declared unfair the hat jobbing house of Triest & Co., 116 Sansone St., San Francisco, California, and 71 First St., Portland, Oregon, on account of that firm persisting in handling the product of D. E. Loewe & Co., hat manufacturers of Danbury, Connecticut, where the United Hatters of North America have been on a strike for fair conditions since August, 1902. 3628

"At a meeting of the officers and members of the Executive Committee of the Washington State Federation of Labor held at Tacoma, September 13, 1903, the action of the San Francisco Council of Labor and the California State Federa-

3629 tion of Labor declaring Triest & Co. unfair, was endorsed. We therefore beg to inform you that it is the desire of the Union men and women in your locality and in the state that you do not patronize Triest & Co. as long as such firm continue to handle the hats made unfair by the D. E. Loewe & Co.

"Trusting you will withhold your patronage from Triest & Co. until the existing conditions are adjusted, we are

"Very respectfully,

"William Blackman, President.

"James Menzies, Secretary.

3630 "Also endorsed by Tacoma Trades Council, September 14, 1903, and the Western Central Labor Union of Seattle, September 16, 1903."

"Q. How did this matter come to the attention of the Washington State Federation of Labor? A. I really don't know.

"Q. What is the ordinary course of procedure in matters of this kind? A. Why, do you mean in sending out these circulars?

"Q. You did not send those out on your own personal responsibility? A. Oh, no.

3631 "Q. What is your authority? A. The Executive Board.

"Q. And were you instructed by the Executive Board to prepare those? A. No, sir. That was prepared for me, that is all.

"Q. Who prepared that for you? A. The Executive Board.

"Q. Were you a member of the Executive Board at that time? A. No, sir, I was secretary.

"Q. Did you take the minutes of the Executive Board? A. I usually did, yes, sir.

3632 "Q. Then you were present at the times of their meetings? A. Yes, sir.

"Q. Do you recall how this matter was brought to the attention of the Executive Board? A. I don't remember just how that was brought to their attention.

"Q. Do you recall being present at the meeting when it was discussed? A. I do not, no, sir.

"Q. You couldn't state whether it was on written application of some one that this was done, or whether it was by personal appearance by some one before the Executive Board?

A. No, sir, I couldn't say now which it was. This was so long ago I don't remember that. 3633

"Q. Who is the custodian of the records of the Washington State Federation of Labor? A. The secretary.

"Q. Who is he? A. A man by the name of Taylor.

"Q. Does he live in Seattle or Tacoma? A. In Tacoma, I believe.

"Q. Did you ever meet a gentleman by the name of Mr. Hennelly? A. Yes, it seems to me I have.

"Q. Do you recall who he was, or anything about him? A. Yes; represented the Hatters' Union, the International Hatters' Union. 3634

"Q. Do you recall when you met him in reference to the date of this circular? A. No, I do not. The dates I can't really remember, in regard to those things.

"Q. You cannot say whether it was before or after this circular was sent out? A. I could not, no.

"Q. Do you recall whether Mr. Hennelly had any connection with the circular? A. No, sir, I can't recall that even.

"Q. Where did you get the information that Triest & Co. had been declared unfair by the California State Federation of Labor? A. Well, I don't know that either, where it came from. 3635

"Q. If it is stated on this circular, it is a fact though? A. Well, it would look that way.

"Q. Will you state where you got the information that it was endorsed by the Tacoma Trades' Council and by the Western Central Labor Union of Seattle? A. Well now, I don't remember that. Those things are usually fixed up by the Executive Board and handed to me to send out, you understand.

"Q. But you don't recall any of the discussion which took place at any meeting of the Board? A. No, sir, I don't, I don't remember any. 363

"Q. Well, do you recall the dates when these circulars were sent out? A. No, sir.

"Q. Reading that circular there to refresh your memory, see if you have any recollection of it? A. No, sir. It is pretty hard for me to go back and try to remember those things, the dates, myself. I run those things in a routine way, and just let them go at that. I had no reason to keep those things in my mind.

3637 "Q. You cannot state anything with reference to the date? A. I really cannot, no, sir.

"Q. Not even the year? A. Nor the year, no sir, only from what I see on the circular is all.

"Q. You have no doubt in your own mind that these circulars were sent out about the dates therein mentioned? A. Well now, I can't even remember mailing these circulars out. They may have been mailed out, and they may not have been mailed out. But that I can't really remember, mailing them out to people.

3638 "Q. That isn't the question. Please read the question? A. You see those things came up in—

"Q. (Interrupting.) Of course that is not responsive. I want an answer to the question if you can give it. A. What I was trying to explain to you, things came up, and they might not have been sent out even after having decided to send it out. I can't say, I don't remember that this was done, but it looks regular.

"Q. As far as you know they were sent out to no one but the constituent unions? A. That I know positively; couldn't be sent to anyone else. We have no authority to do it.

3639 "Q. Did your organization ever send them to dealers? A. No, sir, not to my knowledge; I never did.

"Q. Did your organization ever place any extra copies in the hands of people where they could be circulated? A. I don't think so. I have no knowledge of that being done.

"Q. The various organizations affiliated with this State Federation of Labor pay dues to it? A. Yes, sir."

Mr. Mulholland:

Pass the cross examination.

Mr. Merritt:

3640 I will read the deposition of

HENRY S. LILLAGAR,

also taken at Seattle.

"Mr. Merritt:

"Q. Your age, please? A. Sixty-three.

"Q. Your present address? A. Is 1119 East John Street.

"Q. You have retired from business? A. Yes, sir.

"Q. How long ago? A. The 12th of last month is 3641
when I quit entirely, although I have not been doing any business for over a year.

"Q. What was the name of your concern that you were doing business with at that time—that you were connected with? A. Well, formerly up to that time largely we were doing business—well, it was first the Seattle Hat Factory, Lillagar & Ross and then it was Lillagar & Steef and then Lillagar & Barkman.

"Q. Will you give the period of time during which you did business under the name of Lillagar & Barkman,, in a general way? A. Well, that has been about the last five years, 3642
six years, I think—seven years. Let's see, we have been in our present location first—last April, five, six, seven—about seven years, I think, Mr. Barkman and I have been together.

"Q. That concern then came into existence about 1901? A. 1901 '02, along in the neighborhood, six.

"Q. And prior to that time what was the name of the concern? A. Lillagar & Steef, but that was very short.

"Q. How long a period of time? A. A very few months, probably three months, two months.

"Q. And prior to that time? A. It was Lillagar & Ross. 3643

"Q. How long was that concern in existence? A. About a year. Prior to that I ran it myself.

"Q. Under your own name? A. No, under the name of the Seattle Hat Factory. That is where I started first, it was to be the Seattle Hat Factory.

"Q. The concern of Lillagar & Barkman succeeded to the name of Seattle Hat Factory, did it not? A. Yes, sir.

"Q. Did each one of those concerns deal in hats? A. All exclusively.

"Q. Did each one of these concerns deal with Triest & Company? A. Yes, sir. 3644

"Q. Are you acquainted with Mr. Loewe? A. No, sir.

"Q. Or the concern of D. E. Loewe & Company? A. No, sir.

"Q. Never saw their factory? A. No, sir.

"Q. Do you know whether or not you ever dealt in their goods? A. Well, only have been told so.

"Q. You don't know their goods if they were delivered to you? A. No, but we supposed they were D. M. Loewe's goods, that is, a portion of them, that is all their non-union

goods, what was termed non-union or hats without the label.

"Q. You deal in both union and non-union goods? A. We did.

"Q. Do you know the difference between a union and non-union hat? A. Yes, sir.

"Q. What is the distinguishing feature? A. The distinguishing feature is the absence of the label.

"Q. Can you state whether or not that is a copy of the label (showing witness Exhibit '9')? A. I should judge that was it; it corresponds with the 'No Name' label here."

"Q. Which is the manufacture of the hat you have? A. That is the hat I have, yes.

"Q. In your hand? A. Yes.

"Q. During this period when you were dealing with Triest & Company, did you purchase both union and non-union hats from them? A. Yes, sir.

"Q. How large were your purchases from them? A. Oh, they varied. Of course we bought from them generally—

"Q. (Interrupting.) In a general way were they considerable? A. Yes, one or two years we bought considerable goods of them. I can't exactly call to mind—

"Q. (Interrupting.) Did the purchases continue during most of this period when these three concerns were doing business? A. How is that?

"Q. Did the purchases from Triest & Company continue during the most of the period when these three concerns were doing business? A. Yes, sir. Yes, sir, exclusively.

"Q. Were the relations with Triest & Company satisfactory or unsatisfactory? A. Very satisfactory—liberal.

"Q. The goods were desirable? A. To a very large extent: Now, I want to emphasize in there, up to about four or five years ago, the non-union hat, or in fact the non-union hat today is the best hat made for quality, trimness and so on, but we were unable to sell it on account that people would not have it on account of not having a union label, and hence Triest & Company were using what is known as the Loewe hat —I think is the factory they went under—handled pretty near exclusively that hat, which was not a first-class—what we considered not a first-class hat, and that was our first complaint we had against Triest.

"Q. About what time did this increased market for union goods evidence itself? A. Well, that must have been about four or five years ago.

"Q. And from that time on you purchased more union goods than non-union goods? A. Exclusively union goods. 3649

"Q. You stopped purchasing non-union goods entirely? A. Exclusively, yes, sir.

"Q. Would you state whether or not during the period you were purchasing from Triest & Company, you ever received any communication, written or orally, by persons visiting you asking you to stop patronizing Triest & Company? A. Well, we received quite a number. I think, if my memory serves me right, we received a communication from the Western Federation—I think they call themselves—of Labor or something of that character, and one from the Central Labor Union here, of Seattle. 3650

"Q. Did you receive any personal visit from anyone in reference to this matter? A. Quite a number.

"Q. Do you recall the name of anyone that visited you? A. There was a fellow came from the East here—Halladay or Hannelly, Hinnelly—Hannelly, I think his name was Hannelly. He represented the United Hatters of America, of New York.

"Q. Will you look at that card and state whether you believe that is the gentleman's name (handing card to witness)? A. W. C. Hennelly, that is the fellow. I had a whole mess of that stuff, which we threw away about a year ago. 3651

"Q. You have kept no circulars or communications of any kind in reference to this matter in your possession? A. I have nothing in my possession. If it is, it may be some little stuff around the safe, but I hardly think it is; I think it has all been destroyed, though, old letters; there was a big lot of it, of letters and stuff, was kept.

"Q. Did Mr. Hennelly, when he visited you, hand you any cards or written communications? A. No; he just merely called on us personally and told us it was for our interest to not deal with Triest & Company, as they were on the unfair list. I remember that man very distinctly, of having a row with him. 3652

"Q. How many times? A. Once.

"Q. Did he visit you more than once? A. Oh, yes, he was there three or four times; four times, I think.

"Q. Did he tell why Triest & Company were on the unfair list? A. No; he didn't tell me that, any more than they were unfair.

3653 "Q. Was there any mention made of the name of D. E. Loewe & Company? A. I will not state that, no more, than they were unfair.

"Q. Did he limit his request of you to patronize non-union hats, or did he extend it to union hats, also, in the case of Triest & Company? A. Well, no; his fight appeared to be on Triest here with us; that is the conversation that I had with him.

"Q. Well, did his request include only the non-union hats sold by Triest, or did it include the union hats as well? A. Well, to not deal with them at all; that they were on the
3654 unfair list as a firm.

"Q. I asked you before whether any mention was made of D. E. Loewe & Company? A. Yes.

"Q. Will you state what the reference was to that concern? A. That Triest & Company either controlled or sold all the output of D. M. Loewe's & Co.'s output on the Pacific coast; that they controlled this country and that D. M. Loewe was fighting the unions east.

"Q. State whether or not that was given as the reason for his visit to you? A. Well, I could not say positively in regard to that, but I supposed so from his tenor of conver-
3655 sation, that he would not have been there unless it was.

"Q. Do you recall what unfair list he stated the concern of Triest & Company was on? A. No; he didn't any more than they were unfair, handling unfair goods, selling unfair goods.

"Q. Do you recall anything further of the conversation? A. We had quite a row, Hennelly and I did, over the question of the union label. It was over two cases of goods, which were in the depot, and he told me that I had bought from Triest when I had promised not to—this answering to a former visit that he had when I told him that I
3656 should buy no more goods of Triest, that is in answer to that letter I wrote there—and I told him that he was a liar, for the simple reason that I had bought no goods of Triest & Company, and if there was any such goods down there was two cases of caps, which were from Triest, Rosenburg & Company, and he informed me that they were all the same thing and they were on the unfair list.

"Q. That Triest, Rosenburg & Company were on the unfair list? A. Yes, because Triest owned it, he said. Well, I says, 'Here, now.' I says, 'I am betting you a hundred dol-

lars to a cent,' I says, 'that there ain't a hat or a cap in that box there but what has got the union label in; if they haven't they go back, for they were bought under that head,' and I says, 'You are not going to go back, certainly, on your union label, are you?' 'Well,' he says 'we don't want you to buy any goods off of these people.' 3657

"Q. At a previous visit, then, Mr. Lillagar, you promised Mr. Hennelly not to patronize Triest & Company? A. Yes, sir.

"Q. Will you state whether or not you kept that promise? A. I did. 3658

"Q. You were connected with this concern or the three concerns of the respective names up to about eight months ago? A. A year ago. Well, I have been connected with them up until just a little over a month ago.

"Q. And you were actively connected up to about eight months ago? A. Yes, sir.

"Q. And up to the time you left, will you state whether or not that concern kept its promise not to buy from Triest & Company? A. During my sickness about two years ago—about a year ago I was away, we bought one, little, small bill.

"Q. Of felt hats? A. Of felt hats, of Triest & Company. 3659

"Q. Union or non-union hats? A. They were supposed to be union hats. I know most of them were all sent back, which I suppose was on account of union labels not being in them. The books will show just exactly.

"Q. During any of these visits by Mr. Hennelly, what, if anything, was stated by him to induce you to make this promise not to purchase from Triest & Company? A. Well, he informed me that if we did not we should be posted in every union in the city.

"Q. Did he state what he meant by 'posted'? A. No, but I thought I knew pretty well what he meant. 3660

"Q. What did you understand him to mean? A. Well, I understood that we would be on the bulletin in every union lodge in the city, as on the unfair list.

"Q. What did you understand would be the result of being on such a bulletin? A. Why, we would be boycotted or hurt in a business way.

"Q. Is that all Mr. Hennelly said to you of that nature? A. Oh, well, of that nature, yes, of that nature; I was in-

3661 formed that if we did not, we would be posted here. I suppose he meant by that—I know what posted meant.

"Q. State whether or not this is the sole reason that you ceased patronizing Triest & Company at that time? A. Well, that was the sole cause of us not patronizing them. Permit me to say, right here, we bought goods from other people as well as Triest."

I don't think I need any more of that.

Mr. Mulholland:

Pass the cross examination.

Mr. Merritt:

3662 I will now read depositions taken at Portland, Oregon, September 11, 1908.

"Q. Plaintiffs appearing by Walton Gordon Merritt, Esq., of counsel; and the defendants appearing by J. K. Beach, Esq., of counsel."

Deposition of

NATHAN SCHLUSSEL.

"DIRECT EXAMINATION.

3663 Questions by Mr. Merritt:

"Q. Please give your age and residence? A. I live at Astoria, Ore., I am fifty years of age the 30th of this month.

"Q. What is your business? A. Clothier, gents' furnishing goods.

"Q. Are you the proprietor of the business with which you are connected? A. Yes.

"Q. How long have you been in business for yourself? A. Twelve years.

"Q. Do you do most of the purchasing for your concern? A. Yes.

3664 "Q. What is the name under which you do business? A. N. Schlussel.

"Q. Have you been under that name for the whole of the twelve years? A. Yes.

"Q. While doing business under that name and as owner, have you had any dealings with Triest & Co.? A. Yes.

"Q. State the nature of those dealings? A. I bought hats of them.

"Q. For what period of time have you bought hats of them? A. About six or seven years. 3665

"Q. That is, you have purchased from them continually for six or seven years? A. I did not purchase one year or so.

"Q. What years was that, if you can place it; I got notice from a union in Portland, and a local representative, and a man named Hennelly, who represented himself as a representative of the Hatters' Union, called on me and asked me if we sold Triest & Co. goods; that a firm they bought of, I cannot remember it now—certain hats they handled— 3666

"Q. Was the name Loewe? A. Yes, that was it; they had had some trouble with the unions; in fact, to begin at the beginning he came into my store and asked me if I had any objection to his examining my hats; asked me if we sold union hats, and I told him we did. I showed him some of our hats, and he asked me who I bought them of, and I told him of Triest & Co. He then told me the unions had some trouble with Loewe & Co., and that Triest & Co. handled their goods. I told him I knew nothing about that; that most of my goods I got from Triest & Co. were union goods. 3667

"Q. Do you recall the full name of this man Hennelly? A. No, I do not.

"Q. Did he give you his card? A. No, it has been four or five years since that occurred.

"Q. Would you recognize the card if you should see it? A. I think I would.

"Q. I will ask you if this card I now show you is like the card he gave you? A. It looks very much like it. He had some copies of cards with the union label on them; cards with copies of the union label.

"Q. You mentioned also a card offered you by Mr. Hennelly with the union label on it; do you think you would recognize a copy of that if you saw it? A. I think I would, yes." 3668

I will say here that the card showed him was the card of "William C. Hennelly, National Advertising Agent," etc., the same as has already been read to the jury.

"Q. I show you Plaintiffs' Exhibit 9 and ask you whether that is like the card he showed to you? A. Yes,

3669 that is the card; he had several cards similar to that, too, but he had one like that that I remember.

"Q. Can you, in a general way, place the date of this visit from Mr. Hennelly? A. No, sir; I could by referring to a letter I wrote to Triest & Co.

"Q. Did you receive more than one visit from Mr. Hennelly? A. I would not be positive; he came back to town again, but whether he came to see me afterwards I would not say. We had a little tilt while he was there.

"Q. You don't recall whether he came to see you more than once? A. I would not be positive; I know he
3670 was back in town again. I don't think he did. He ordered me to do something I would not; I told him distinctly what I thought of the matter at the time and he did not come back again at that time. I told him I would not do it.

"Q. I show you a letter dated September 5th, 1903, purporting to be sent by you, and ask you whether or not that is your signature on there, in your own handwriting? A. (Witness examined the letter.) Yes.

"Q. It is? A. Yes.

"Q. I show you also a letter dated September 11,
3671 1903, purporting to be sent by you; will you state whether or not that is your letter and your signature? A. Yes, it is.

"Q. After having glanced at these Exhibits 14 and 15, can you state approximately what date it was he called on you? A. Yes.

"Q. What date was it? A. In the neighborhood of September 5, 1903.

"Q. Do you wish to make any correction of your testimony? A. That letter refreshes my memory about the way he was introduced to me; he was introduced to
3672 me the way it is stated in that letter.

"Q. Did Mr. Hennelly deliver to you any circulars of any kind? A. No, sir.

"Q. Can you state whether or not you received any circulars in reference to Triest & Co.? A. Yes.

"Q. Have you with you any circular you received? A. No, sir, I could not find any. I think I sent them to Triest & Co.

"Q. Would you recognize those circulars? A. I think I probably would.

"Q. I will show you a paper purporting to be issued by the Oregon State Federation of Labor, and ask you whether or not that is a copy of a circular such as you received? A. Yes, looks to me like the same circular. 3673

"Q. Do you think, or do you know, whether it is the same? A. I mean is it the same kind that I received.

"Q. You cannot state positively whether it is an exact copy of the circular you received? A. As far as my memory goes it is exactly the same.

"Q. It is? A. Yes."

The circular referred to is the same as Plaintiffs' Exhibit 103, issued by the Oregon State Federation of Labor, while I will not read now again. 3674

"Q. Did you receive more than one kind of a circular? A. I am not positive of that, though I received several circulars.

"Q. You received several circulars, but you cannot state whether they were the same or different? A. No, not to the best of my recollection.

"Q. I will show you another circular—"

I don't claim this one. He says "I don't remember receiving it" anyway. 3675

"Q. How did these circulars which you did receive come into your possession? A. Through the mail.

"Q. Can you testify whether or not the circulars which you forwarded to Mr. Triest, or Triest & Co., were circulars which you received through the mail? A. Yes, sir, they were.

"Q. Are you familiar with a paper called the Morning Astorian? A. Yes, I am.

"Q. Do you recall reading anything in the Morning Astorian on or about the time that Mr. Hennelly visited you concerning this matter? A. There was something in the paper, I remember that. 3676

"Q. Have you ever seen this copy of the Morning Astorian? (Referring to the Morning Astorian of September 5th, 1903.) A. Yes, I have seen that.

"Q. I show you certain marks in lead pencil that appear on that paper; can you state whether or not you made those marks? A. I think I might of; I did if that is the paper I sent them. Of course, I have no way of telling that.

3677 "Q. The paper you sent who? A. I sent it to Triest & Co.

"Q. Can you state whether or not that is the copy of the paper you sent Triest & Co.? A. It looks like it. I don't know whether those are my marks or not. I sent them a copy of this issue of this paper.

"Q. Can you state whether or not that is a copy of the same issue, identical to the one you sent them? A. Yes, that is exactly the same, but, of course, I cannot state whether that is the very one I sent or not.

3678 "Q. Is the Morning Astorian a paper printed and published at Astoria, Ore.? A. Yes, sir.

"Q. It is a daily paper? A. Yes.

"Q. To your knowledge, how many years has the Morning Astorian been published in Astoria? A. Published ever since I have been there, for twenty-nine years that I personally know of."

Now I offer in evidence the extract from this paper of September 5th, 1903.

Mr. Mulholland:

To which we object, and take an exception.

3679 Mr. Merritt:

There is no objection to the fact that the paper is not here?

Mr. Mulholland:

No, it is the form of proof we object to, the contents of an article, being a newspaper clipping, hearsay.

Mr. Merritt:

"Fraudulent Labels Used.

"Practice of Local Dealers Will Be Combatted.

"William C. Hennelly, National Advertising Agent and Representative of the United Hatters of America, is

3680 in Astoria in the interest of union labor. This is Mr. Hennelly's first visit west of the Rockies, and he is very much taken with the Western country."

The Court:

What is it you are reading?

Mr. Merritt:

An extract from the daily paper in Astoria, Oregon, which this witness has testified to as being an extract from that paper, and he identified the paper himself as he looked at it, and stated that he sent a paper to Triest &

Company. We claim that just as we claimed the extracts from the Richmond paper and the California papers. 3681

Mr. Beach:

In support of what?

Mr. Merritt:

In support of the allegation of the complaint that you used the daily press to promulgate these boycotts, etc.

The Court:

As confederates, or those who were part of the scheme?

Mr. Merritt:

Yes, your Honor. 368

"He sees more opportunities for the advancement of the men who must toil for a living and predicts a great future for the coast region.

"Mr. Hennelly is creating a local sentiment in favor of union-made hats. It has come to his knowledge that some of the Astoria hatters have used imitations of the union label and he has talked with them about the matter. He will lay the charge before the labor unions and hopes to be successful in his efforts to stamp out the practice. All union labels in hats are sewed in, those pasted in being fraudulent. 368

"Local dealers have been requested to discontinue selling the D. E. Loewe hat, which is handled almost exclusively by Triest & Co., of San Francisco. The California house is under the ban for disregarding the union regulations and has been declared unfair by the Portland Federated Trades Council. Some local dealers have been carrying Loewe hats and Triest goods, but all have agreed to discontinue sale of these goods.

"'Nowadays, the unions are employing different methods to obtain results,' said Mr. Hennelly to an Astorian man, 'they are creating so great a demand for union made goods of all kinds that manufacturers are compelled to use the union label. This manner of advancing the cause of labor unionism is very effective and much more satisfactory, and gives the labor organizations better standing.' 368

"Mr. Hennelly will probably be in the city until tonight. He says there are practically no hat manufacturing establishments west of Philadelphia, all the hats coming from the far Eastern States.

3685 "Q. Going back to the conversation with Mr. Hennelly, did anyone accompany him? A. Yes.

"Q. Do you recall his name? A. I can't recall it offhand.

"Q. Would you recognize the name if you heard it? A. I think I would.

"Q. Was the name Knobel? A. Yes, that sounds like it.

"Q. Have you ever seen Mr. Knobel's handwriting? A. Yes, sir.

3686 "Q. Do you think you might recognize it? A. I would not be positive.

"Q. I will show you a letter purporting to be signed by H. Knobel, Secretary, dated September 20, 1903, and ask whether or not you recognize that as Mr. Knobel's handwriting? A. I am not familiar enough, sir, with his handwriting without comparison.

"Q. Have you anything here to compare it with? A. Yes.

"Q. I will ask you to make the comparison? A. (Witness does so.) It looks to me like that. I am no writing expert, though."

3687 I would like to call attention to the fatc that the letter which the deponent was being interrogated about is Plaintiffs' Exhibit 100 in this case.

"Q. Who did Mr. Knobel represent himself to be? A. He was in the Federation down here, some combined unions down here—he seemed to be some officer.

"Q. Combined unions down where? A. Astoria.

"Q. You mean some local federation? A. Yes, of Astoria.

"Q. Would you know the name of that federation if you saw it? A. I have seen the name in the paper.

3688 "Q. You can't recall the name as stated to you by Mr. Knobel at that time? A. He was some officer in the local federation there.

"Q. Could you state whether or not it was the Astoria Central Labor Union? A. That might have been the name of it.

"Q. Do you remember Mr. Knobel's initial? A. All I know is what I have seen here; I would know it otherwise.

"Q. State whether this has refreshed your memory so that you can tell? A. No, sir. I don't know the man personally and don't know his initial. I have seen him around town. 3689

"Q. Did you state what office he held in that connection? A. I did not.

"Q. Did he state? A. I don't remember.

"Q. You remember distinctly that he held an office? A. He held an office, that is, he told me so."

"Q. Will you state again, Mr. Schlussel, whether or not after examining Plaintiffs' Exhibit 17 and making the comparison, you believe that to be the handwriting of Mr. Knobel? A. Yes, sir. 3690

"Q. Will you state what further took place or was said at this meeting between you, Mr. Knobel and Mr. Hennelly? A. Mr. Knobel said nothing at all. He just called with Mr. Hennelly.

"Q. Briefly just state what Mr. Hennelly said? A. He said nothing personal in regard to that.

"Q. What did he want you to do in regard to Triest & Co.? A. He didn't say very much, but he gave me to infer that they were not acting right toward the unions, but they were dealing with this concern of Loewe & Co., and Loewe & Co. were having trouble with the unions East. 3691

"Q. What did he want you to do in connection with Triest & Co.? A. He wanted me to quit dealing with them.

"Q. Did his request not to deal include union purchases or non-union purhcases? A. He didn't mention anything about it—just not to deal with them at all. I told him most of the hats were union hats and most all the hats I handled were union hats, 95 per cent. of them were.

"Q. Did he say there would be any consequences for continuing to deal with Triest & Co.?" 369

Mr. Mulholland:

That is objected to; exception.

Mr. Merritt:

"State what was said in that connection? A. He told me the laboring man, the union man would not patronize me, and furthermore he warned me that if I did that they would know of it.' '

3693 Mr. Mulholland:

I object to the remainder of it.

Mr. Merritt:

I claim it all; it is conversation with Mr. Hennelly.

Mr. Mulholland:

Exception.

Mr. Merritt:

"That they knew all the shipments to different merchants from San Francisco.

"Q. Did he state how they would know that? A. Yes, he stated.

3694 "Q. Give me the substance of what he said on that point? A. He said they had men watching the shipments.

"Q. Was there anything more said by Mr. Hennelly at this time? A. In the conversation with me?

"Q. Yes."

"Q. Was there any connection between the receipt of the circulars and the visit by Mr. Hennelly and your ceasing to do business with Triest & Co.? A. What do you mean by the word connection? If his call had anything to do with it?

"Q. Yes? A. Yes, sir, part of it.

3695 "Q. State to what extent it had something to do with it? A. Rather than to have any trouble for a season or so, I bought all my goods from Eastern houses—Chicago.

"Q. You had had no trouble with labor unions up to that time? A. No, sir, I never had any trouble with them.

"Q. What made you think you would have trouble if you continued to patronize Triest & Co.? A. I thought that they might join among themselves, or organize, and it would withhold trade from me.

3696 "Q. During what period of time did you cease dealing with Triest & Co.? A. I could not give it exactly, but about a year."

Then there is an interruption.

"Q. Are you dealing with them at the present time? A. Yes.

"Q. Do you buy union or non-union goods? A. Union goods.

"Q. Do you buy any non-union goods? A. No, sir. Knowingly I do not, but I always try to get union goods. Ninety-five per cent. of my goods are union goods."

Mr. Beach:
We will omit the cross examination.
Mr. Merritt:
Testimony of

AARON FOX,

taken at Portland.
"By Mr. Merritt:
"Q. State your age? A. I will be fifty-one next March.
"Q. Where do you live? A. Troutdale, this county.
"Q. That is only a short distance from here? A. Eighteen miles.
"Q. What is your business? A. General merchandise.
"Q. Carry hats? A. Some.
"Q. How long have you been engaged in that business? A. Seventeen years next May.
"Q. Always carried hats? A. Yes.
"Q. Are you acquainted with the concern of Triest & Co., of San Francisco? A. I have been up to about five years ago. I don't think I have bought any goods of them in the last five years.
"Q. Were your relations friendly or unfriendly? A. Friendly.
"Q. Goods satisfactory or unsatisfactory? A. Always satisfactory, excepting the last shipment.
"Q. How long did you deal with them prior to the time you stopped? A. I should judge six or seven years, maybe more than that.
"Q. Did you deal with them continuously, or just at times? A. Continuously.
"Q. What portion of your hats did you purchase from them? A. All of them.
"Q. Did you sell union or non-union hats? A. I could not say about that. I was looking over my hats since I got the subpoena in this matter, and I noticed one hat that did not have a union label on it; it was an old-fashioned hat.
"Q. What about the others? A. Union.
"Q. You could not state what portion was union and what portion was non-union? A. No, I could not.

3701 "Q. Do you know the difference between the union and the non-union? A. I could see by the label, recognize the label.

"Q. Do you know the label? A. Yes, sir.

"Q. I show you the Plaintiffs' Exhibit 9? A. That is the union label.

"Q. Your understanding is that union hats bear that label under the leather? A. Yes, sir.

"Q. Will you state whether or not during the period when you purchased hats from Triest & Co. you ever received any communications or visits from any one requesting you to stop dealing with them? A. I never was visited by any one; neither was I ever requested to stop dealing with them. The last bill of goods I bought I had heard that Triest & Co. were unfair; I told his representative to send me union goods, and about the time the shipment should have left San Francisco, I don't know whether it was a Portland or a San Francisco letter, but I received two circulars from either a Portland or a San Francisco union stating that Triest & Co. were unfair, and I refused to take the shipment.

3702

3703 "Q. Those were goods you had ordered? A. I bought, yes.

"Q. Do I understand that you refused to take the goods before you received the circulars? A. No, I say when I got the circulars then I refused to take the goods; I believe I wrote them a letter to that effect, I know I wrote them.

"Q. Had you heard that Triest & Co. were unfair prior to the time you received these circulars? A. I believe I did. That question came up when I purchased the bill of goods; I know it did.

3704 "Q. From what source did you hear that? A. I don't remember.

"Q. You remember receiving two circulars? A. I remember receiving two circulars, I believe in the same envelope.

"Q. How did the circulars come to you? A. By mail.

"Q. Have you them in your possession? A. No.

"Q. How soon after the receipt of these circulars did you cancel the order? A. Just as soon as it came.

"Q. Same day? A. I could not say.

"Q. You don't remember? A. I do not. 3705 3

"Q. Would it have been the same week? A. I don't remember now. It might have been the goods came up to the store and the stuff might have been without union labels, I don't know. I don't think so. I think I countermanded the order on the strength of receiving the circulars. We have two strong unions in Troutdale and I don't want to get mixed up with them.

"Q. What do you mean by getting mixed up with them? A. I have been mixed up before with unions. Every employee out at Troutdale is a union man, and I cater to their trade. I have all kinds of union things. We 3706 14 have two very live unions there and I don't want to get mixed up with them; I mean I don't want to lose their trade. That would be what it would amount to.

"Q. What made you think you would be mixed up and would lose trade? A. I know I would. I have been boycotted three or four times. I have had some experience in that line.

"Q. Do you remember the contents of the circular? A. No, I don't.

"Q. What did the circular mean to you in a general way? A. That the firm of Triest & Co. was declared unfair; just about the time the shipment left San Francisco this circular came to me; the circular came just about the time the bill came. 3707 '15

"Q. Why did you care to stop dealing with them, because the circular declared them unfair? A. Just as I told you before. I said there are two strong unions in Troutdale; if I had bought goods that were declared unfair I would be declared unfair by the unions and they would boycott me, as they have done two or three times before.

"Q. Can you state whether or not these goods that you ordered and canceled were union or non-union goods? A. I could not say. I don't know. 3708 716

"Q. You did not attempt to ascertain? A. No, it made no difference to me whether they were union goods or not, I could not handle them.

"Q. Why wouldn't you take those goods if they were union goods? A. Because Triest & Co. had been declared unfair. My trade is union trade.

3709 "Q. But these were union goods? A. They might have been.

"Q. I will show you a letter of September 2, 1903, purporting to be signed by you, and will ask you if that is your letter? A. Yes, that is my letter and my signature.

"Q. Attached to this I see a paper headed to the Oregon Railroad & Navigation Company; will you tell me whether you have ever seen that paper before? A. I don't know whether I ever saw it before or not. I don't know whether I ever paid the freight on that shipment.

3710 I am skipping a few questions.

"Q. Can you recognize copies of the circulars that you received if you should be shown them? A. I believe I could.

"Q. Can you state whether or not you received any circulars of which this is a copy?"

That is Plaintiffs' Exhibit 103 in this case, which I showed to him, which is the circular of the Oregon State Federation of Labor—or rather, the circular of the Portland Federated Trades Council, with the heading "Oregon State Federation of Labor."

3711 "A. Yes, I believe that is a copy of one I received, in fact I am quite sure it is.

"Q. You stated that you received two circulars in one envelope to the best of your recollection? A. I would not be positive; one was from San Francisco and one was from Portland. I know that I got two circulars.

"Q. Do you think you might recognize the other circular if you should see it? A. I might.

"Q. State whether or not that is a copy of the circular you received?"

3712 That is the circular which has been offered in this case as Plaintiffs' Exhibit 95. I notice that it has been marked simply for identification, but it has been read and should be now marked in evidence. It should have been marked in evidence this morning.

(Said circular marked Plaintiffs' Exhibit 95.)

(Recess 15 minutes.)

Mr. Merritt:

Examination of

3713

HERMAN WISE,

at Portland, Oregon.

"Q. Where is your residence, Mr. Wise? A. Astoria, Oregon.

"Q. Give your age? A. 46.

"Q. What is your business? A. Clothing merchant.

"Q. Do you own the business in which you are engaged in Astoria? A. Yes, sir.

"Q. How long have you been doing business at 3714
that place? A. 22 years.

"Q. Always at Astoria, Oregon? A. Yes, sir.

"Q. Have you dealt in hats during that entire period? A. Yes, sir.

"Q. Are you acquainted with the firm of Triest & Co. of San Francisco, California? A. I am.

"Q. Has your house ever had business dealings with them? A. Have had business dealings with them nearly all of the time, off and on."

I will skip on to page 34.

"Q. I will show you a letter purporting to be from 3715
you and dated September 4, 1903, and ask you whether you ever wrote such a letter? A. I did.

"Q. That letter was prepared by you and sent out by your authority? A. Yes, sir; I wrote it myself.

"Q. You wrote it yourself? A. Yes, sir.

"Q. To whom was this letter sent? A. Triest & Co.

"Q. To whom do you refer when you say 'Mr. R., your salesman?' A. Their salesman, Mr. Rosenfeld."

And the letter which the witness is being interrogated about is Defendants' Exhibit 102 in this case.

3716

"Q. Who is meant by Mr. T.? A. Mr. Triest.

"Q. You state in this letter that 'a representative of the unions came also?' A. Yes.

"Q. To whom do you refer? A. He was a stranger to me; I don't know who the gentleman was.

"Q. You don't recall his name? A. I do not.

"Q. Did you have any conversation with him? A. We conversed together, yes, sir.

"Q. What was the character of the conversation? A. It is now so long ago that I have not had my mind

3717 on it since, so that it is pretty hard to tell exactly what was said. As near as I can tell he called my attention to the fact that some of the hats sold by Triest & Co., which I handled, were on the 'unfair' list.

"Q. Well, what else? A. That was the burden of the conversation.

"Q. Did he inform you what the object of this visit was? A. I can't remember exactly that he did. Inferred from what he said that these hats were on the unfair list and that it would not be advisable for me to handle them, as I wrote to Triest & Co.

3718 "Q. Did he say what hats were on the unfair list? A. I could not state that now.

"Q. Would you know the name of the brand if you heard it? A. We talked very little because some one came in after we had been talking a little while; we did not have a very extensive conversation at all, but I inferred that some of the hats I handled, and bought from Triest & Co. were on the unfair list.

"Q. You would not know the name of the brand if you heard it? A. I could not positively state.

3719 "Q. Was it the Lion brand? A. I know they handled the Lion brand, but I don't know that he stated that.

"Q. Mr. Wise, you testified that you inferred from the conversation that it would be inadvisable for you to patronize these certain hats dealt in by Triest & Co.? A. Yes.

"Q. Will you state why you inferred, and from what you inferred? A. Well, I thought that the people in Astoria, it being a union town, and they are the people I have to sell hats to, and I would not want to sell any hats they would not want.

3720 "Q. You would not want to sell any hats that the people of Astoria would not want you to sell?"

Then there is an interruption.

"The union people; the people were in favor of the labor unions, and it is a strong union town.

"Q. Would you know whether this man who came to see you lived in Astoria? A. No, sir; he was a stranger to me.

"Q. How did you infer that it would be inadvisable to sell the goods because the Astoria people would not

want you to? A. Because he said they were on the unfair list. 3721

"Q. Unfair list of what? A. Unfair list of the labor unions; if they were placed on the unfair list I know the laboring people as a rule won't buy them.

"Q. And that is why you inferred it would not be advisable for you to deal in them? A. Yes, and because I did not want to lose any trade.

"Q. Just what was it in the conversation that led you to that inference? A. The fact that some of the hats handled by Triest & Co. were on the unfair list. 3722

"Q. Did you ever have any conversation with anyone else of a nature similar to this? A. No one except Mr. Rosenfeld, when he came up to sell me goods again.

"Q. Who is Mr. Rosenfeld? A. Traveling salesman for Triest & Co.

"Q. Did you have any conversation with any one else on that subject? A. Not that I remember of.

"Q. Did you ever receive any written communications of any kind relating to this matter? A. I could not swear positively, my impression is that I have.

"Q. Written or printed? A. Printed. 3723

"Q. Have you any recollection of the character of those circulars? A. Just in a general way referring to the fact and corresponded with what the gentleman who called on me said about their being on the unfair list.

"Q. Did it come before or after that gentleman called? A. I could not state now.

"Q. Did it come anywhere near the same date? A. It was the same year and must have been close together.

"Q. Was it in the same month? A. I am not positive as to that; it was about the same time.

"Q. You refer to certain goods in this letter" (which is Plaintiffs' Exhibit 102 in this case), "will you state whether or not these goods were goods you had ordered from Triest & Co.? A. Yes, sir. 3724

"Q. The goods mentioned in that letter were goods you had ordered from Triest & Co.? A. Yes, sir.

"Q. Do you know the concern of D. E. Loewe & Co.? A. I don't know them.

"Q. Never have seen their factory? A. No, sir.

"Q. Do you know their hats when you see them? A. No, sir, never paid much attention to them."

3725 I don't care about the balance of it, except the last question:

"Q. Will you state whether the hats of Triest & Co. were unsatisfactory or satisfactory as merchandise goes? A. Like all other merchandise, as a rule they were satisfactory, and sometimes found some that were not."

Do you want the cross, Mr. Beach?

Mr. Beach:

No.

Mr. Merritt:

I now read the deposition of

3726

GRANT McDONALD.

"Q. Your name is Grant McDonald? A. Yes, sir.

"Q. State your address? A. 123 First Street, Portland, Oregon.

"Q. What is your age? A. Thirty-five.

"Q. What is your business? A. I work at Glass & Prudhomme's. I am a printing pressman.

"Q. Member of a labor union? A. Member of Printers and Pressman's Union, Local No. 43.

3727 "Q. Is that union affiliated with any other? A. Affiliated with the Federated Trades Council and State Federation of Labor.

"Q. Give the full title of that last tone? A. Oregon State Federation of Labor, and the first one is the Federated Trades Council of Portland.

"Q. Does your union pay dues to the Oregon State Federation? A. Yes, sir.

"Q. Are you an officer of the local union? A. No, I am not.

3728 "Q. Are you an officer of the Oregon State Federation of Labor? A. No.

"Q. Are you an officer of the Federated Trades Council? A. I am not now, I was three years ago.

"Q. What office did you hold in the Portland Federated Trades Council? A. Recording and corresponding secretary in 1903, 1904 and part of 1905, I think; I would not be positive.

"Q. Did you ever hear of Triest & Co., of San Francisco? A. I have heard of them, yes, sir.

"Q. I will show you a certain circular purporting 3729
to be signed by the Portland Federated Trades Council, marked Plaintiffs' Exhibit 16, and ask you whether or not you have ever seen a copy of that circular?"

Then the circular which the deponent is being interrogated about is Exhibit 103 in this case, circular of the Portland Federated Trades Council.

"A. I have no recollection of ever having seen this circular, no. I suppose it must be genuine, though I have no recollection of it now.

"Q. Have you any recollection of the subject mat- 3730
ter suggested by the contents of the circular? A. I remember reading something in the Labor Press, but I do not remember of any circular having been sent out by the Trades Council in that connection.

"Q. In the ordinary course of procedure, how would a circular of this kind come to be sent out? A. Well, in a case of this kind, I don't know how this would come to be sent out. Under ordinary conditions a local union having a grievance against a firm would ask that the Federated Trades Council send out such circulars; but in this case of Triest & Co. the hatters have no local organiza- 3731
tion here and I don't know how such a circular would be sent out.

"Q. Did you ever send out such circulars on your own personal responsibility or authority? A. No."

I will read the last question and answer:

"Q. Have you any doubt in your mind that this circular was sent out in the ordinary course of procedure? A. I would not like to say it is not regular or anything of that kind, or to tell you that I did not believe it was sent out by the Federated Trades Council; it is my opinion this was sent out by the Oregon State Federation of La- 3732
bor and was probably authorized all right."

Examination of

H. C. GURR,

at Portland.

"Q. Your name is H. C. Gurr? A. Yes, sir.

"Q. State your age and residence? A. Age 56, residence Portland, Oregon.

"Q. Were you president of the Oregon State Federation of Labor on August 21, 1903? A. I could not

3733 state whether I was or not. I have been president and was at the time this circular" (which is Exhibit 103 in this case) "was sent out, because my name is signed to it.

"Glancing at this exhibit, will you state whether or not it was customery for the Portland Federated Trades Council to send out circulars of this kind in some instances? A. There have been circulars sent out, yes, sir. We have received circulars from the different Central bodies throughout, and we sent out circulars similar to that."

3734 Examination of

ARTHUR C. RAVEN

at Portland.

"State your address and age? A. I work at The Journal office, I am twenty-eight years of age.

"Q. Are you a union man? A. Yes, sir.

"Q. What union do you belong to? A. Typographical No. 58.

"Q. Is that affiliated with any other union here? A. Affiliated with the Portland Federated Trades Council.

3735 "Q. Are you affiliated with the American Federation of Labor? A. No, sir, only through out international union.

"Q. Your union belongs to the international union? A. Yes, sir.

"Q. And that union is affiliated with the American Federation of Labor? A. Yes, sir, to that extent they are affiliated.

"Q. Just what the affiliation amounts to you are not apprised of? A. I don't know any more than that we send from three to five delegates.

3736 "Q. Do you pay dues to the American? A. No, sir, except as a union.

"Q. Do you pay dues to the International? A. Yes, sir, per capita.

"Q. Do you hold any office in the union? A. I am one of the auditors, and a delegate to the Federated Trades Council.

"Q. Are you anything more than a delegate to the Federated Trades Council? A. For our union?

"Q. Yes, sir? A. No, sir.

"Q. Do you hold any other office other than you have mentioned? A. I am secretary. 3737

"Q. What are the duties of secretary? A. I keep the minutes, collect the dues, write the communications, perform the ordinary duties of secretary.

"Q. As secretary do you have custody of the books? A. Yes, sir.

"Q. The minute book and the account books? A. Yes, everything.

"Q. All the books? A. All the books, yes, sir.

"Q. I show you a certain book which purports to be the minutes of the Federated Trades Council from January 2, 1903, until July 21, 1905, and ask you whether you have ever seen that book before? A. Yes, I presume I have seen it, I would not be able to identify it as being any particular book, but it is a book belonging to the Federated Trades Council and I found it in their locker. 3738

"Q. How did it come into your possession? A. It was in the locker when we went to move the stuff from one hall to another; we moved from the Drew Hall to the Bartenders Hall.

"Q. Was this Drew Hall the office of the Federated Trades Council? A. That was where we met. 3739

"Q. And had they changed their meeting place? A. Yes, sir.

"Q. To where? A. To Bartenders' Hall.

"Q. In moving these books you simply moved from one office of the Council to another office of the Council? A. Yes.

"Q. Just where did you find this book in the Drew Hall? A. In the locker on the shelf.

"Q. Was there anything else with it? A. Various and sundry other papers and old records.

"Q. What did the papers and records purport to be? A. Well, they were stubs of some receipt books and some minute books and others. 3740

"Q. Of what? A. Of the Federated Trades Council.

"Q. Books of the Federated Trades Council? A. Not all, but the greater part.

"Q. And the receipts were for the Trades Council? A. Yes, the principal part of them were.

3741 "Q. There were some other books and papers there? A. Yes. I really don't know exactly what all; some other union used this locker more or less too.

"Q. Were all the records union records so far as you know? A. Yes, sir.

"Q. When did you go into office as secretary? A. I think the early part of February, 1908.

"Q. Where did the Council meet at that time? A. Drew's Hall.

"Q. Where did you go to get your records and
3742 where did you keep them from day to day? A. In the locker in Drew's Hall.

"Q. Where was this book found? A. It was found there. That is not exactly correct either as to all the records. Some few of the books were at the Labor Press office on First street. The former secretary was the manager of the Labor Press and he had a good share of the books at his office.

"Q. I notice by some of the pages in this book that a great many of the minutes purport to be signed by Grant McDonald; do you recall whether he was secretary? A.
3743 Nothing more than from seeing his name on the minutes.

"Q. Do you recall whether A. R. Lawton was secretary? A. That I could not say.

"Q. Will you state whether those books in your possession are a part of the documents belonging to the office of secretary? A. Yes, sir.

"Q. Will you state whether in your opinion they are the official records of the Federated Trades Council for the dates from which they purport to be? A. To the best of my knowledge and belief they are.

3744 "Q. You have no reasonable doubt but what they are?"

Then there is an interruption.

"Q. I will ask you to turn to the minutes in said book which bear the date, Portland, Oregon, August 21, 1903, who are they signed by? A. Grant McDonald, secretary.

"Q. What printed signature do you find to those minutes? A. Grant McDonald, secretary.

"Q. Will you state whether or not in your opinion the minutes of that body represent the official business

transacted by that council on that day? A. I should imagine so. 3745

"Q. I will ask you if you believe they did? A. Yes, sir."

Then we offered in evidence the minutes dated August 21, 1903:

"William C. Hennelly, National Representative of the United Hatters of North America, was admitted and made an address in which he urged the delegates to use the product of the factory that used the Union label. He also asked that the Council endorse the Hatters' fight against the jobbing firm of Triest & Co., of San Francisco, and the manufacturing house of D. E. Loewe & Co. of Danbury, Connecticut; motion that Council endorse the fight carried." 374

I won't offer the next.

"Q. Do you, Mr. H. C. Grant? A. Yes, sir.

"Q. Do you know whether he ever had any connection with the Oregon State Federation of Labor? A. He is president of it.

"Q. How long has he been president of it? A. I could not say.

"Q. I show you Plaintiffs' Exhibit" (which is 103 in this case) "dated August 21, 1903, purporting to bear the printed signature of Grant McDonald, secretary of the Portland Federated Trades Council, and will ask you whether according to your official records Grant McDonald appears to be secretary of the Portland Federated Trades Council on that date? A. Yes, on August 21, 1903, the minutes are signed by Grant McDonald, as secretary." 374

Now, your Honor, I am going to read the testimony of Frank W. Green, taken on the former trial. Mr. Green is suffering from tuberculosis, and is at the sanitarium at Wallingford, and by consent of defendants his production here personally has been waived. 374

Mr. Beach:

It may be taken as if the witness, under our statute, was beyond the reach of process of court.

Mr. Merritt:

3749

"FRANK W. GREEN

sworn by the clerk.

"Q. (By clerk.) Your full name? A. Frank W. Green.

"Examination by Mr. Merritt:

"Q. What is your business, Mr. Green? A. Hatter.

"Q. And with what concern are you connected? A. At the present time?

"Q. Yes? A. S. C. Holley & Co., Danbury.

3750 Mr. Beach:

What?

"Mr. Merritt:

S. C. Holley & Co., Danbury.

"Q. In what capacity do you represent that concern? A. Superintendent.

"Q. Superintendent? Speak a litle louder if you can? A. Yes, sir; I will try to.

"Q. What character of goods does that concern manufacture? A. Well, they make a hat from thirteen to eighteen dollars.

3751 "Q. Soft hat or stiff hat? A. Stiff hats.

"Q. Is that a union concern? A. Yes, sir.

"Q. That is, it is under the jurisdiction of the United Hatters? A. Yes, sir.

"Q. How long have you been connected with that concern? A. I should say a little over four years.

"Q. What was your business in the year 1902? A. I ran a business known as the Empire Hat Company.

"Q. And what kind of business, in what way did that concern do business? A. It did a manufacturing and jobbing business.

3752 "Q. In hats? A. Yes, sir.

"Q. What kind of hats did you manufacture? A. We bought stiff hats ready to be trimmed, trimmed them ourselves.

"Q. Did you buy them in cone shape or after they were blocked? A. Bought them all ready to trim.

"Q. The trimming was the extent of your work? A. Yes, sir.

"Q. Did these hats bear the union label? A. Yes, sir.

"Q. That is, the union label of the United Hatters? 3753
A. Yes, sir.

"Q. That was the extent of your manufacturing business at that time, as I understand? A. That was the extent of it.

"Q. What was the character of your jobbing or commission business? A. Well, we bought and sold soft hats.

"Q. Did you also sell your stiff hats? A. Yes, sir.

"Q. That is, the stiff hats you trimmed or manufactured? A. Yes, sir.

"Q. From whom did you purchase your soft hats 3754
for sale? A. Well, we bought hats from the Green Mfg. Co.; bought hats of D. E. Loewe & Co.

"Q. Are those the only two? A. That is all.

"Q. And did you buy the same grade of hats from both? A. In some instances, yes.

"Q. And did you buy the same grades from them in other instances? A. No.

"Q. Were there some grades you bought from D. E. Loewe & Co. which you never bought from Green & Co.? A. I believe there was.

"Q. Is Green a union factory, or was it a union 375
factory at that time? A. Yes, sir.

"Q. What grades of hats did you buy from D. E. Loewe & Co. at that time? A. As near as I can remember, we bought hats from ten and a half to eighteen dollars."

That means per dozen.

"Q. What was the grade of hats you purchased from John W. Green & Co.? A. I should say they were from fifteen to twenty-one.

"Q. Was that the lowest grade they made? A. I 375
couldn't answer that. I don't know.

"Q. The lowest grade you ever bought? A. The lowest grade I bought, yes, sir.

"Q. Do you remember the strike that took place with the concern of D. E. Loewe & Co.? A. Yes, sir.

"Q. Do you remember approximately when that was? A. Why, it was some time in August or September, 1902.

3757 "Q. Were you prior to September, 1903, ever asked to discontinue dealing with D. E. Loewe & Co.? A. Please state that question again.

"Q. Were you prior to September, 1903, ever asked to discontinue your dealings with D. E. Loewe & Co.? A. Yes, I was.

"Q. About what time? A. I should say it was in September, or along around the first of November, 1902.

"Q. Had your dealings with Mr. Loewe up to that time been satisfactory? A. Yes.

3758 "Q. From who did this request come? A. It came from Mr. Moffitt of the United Hatters.

"Q. Do you know his first name? A. John Moffitt.

"Q. Did you see him personally? A. I did.

"Q. Where did you first see him in this connection? A. At the Groveland Hotel, Danbury.

"Q. Did you seek him out yourself? A. I did.

"Q. Why did you go to see him? A. Because they stopped my label for the stiff hats.

"Q. What? A. Because they stopped my label for the stiff hats.

3759 "Q. They had stopped your label? A. Yes, sir.

"Q. Are you referring to the label of the United Hatters of North America? A. Yes, sir.

"Q. And how did you get in communication with Mr. Moffitt? A. I tried first to get him over the telephone. He wouldn't talk to me over the telephone. I went over to the hotel to see him.

"Q. Was that in Danbury? A. That was in Danbury.

"Q. And where did you reach him by telephone? A. What I meant by that answer was, I tried to get him

3760 on the telephone at Danbury, and he wouldn't talk to me over the telephone.

"Q. I know, but what place was he when he said he wouldn't talk to you? A. At the Groveland Hotel, at Danbury.

"The Court:

Where were you at that time?

"Witness:

I think I was at S. C. Holley & Company's.

"Mr. Beach:

Where?

Over in S. C. Holley's. I didn't have any telephone of my own. 3761

"Q. You went to Mr. Holley's and telephoned, as I understand? A. Yes, sir.

"Q. And just what did Mr. Moffitt reply to you over the telephone? A. As near as I can remember, he said he didn't care to talk about the matter over the telephone.

"Q. What did you say to him before he made that reply? A. I would like to talk to him.

"Q. Did you tell him what you wanted to talk to him about? A. Yes.

"Q. And what was it you said to him? A. I wanted 3762
to talk to him in regard to the label.

"Q. In regard to the removal of the label from your factory? A. Yes, sir.

"Q. And then he replied to you as you have testified? A. Yes, sir.

"Q. Did you make arrangements with him over the 'phone for a meeting at that time? A. I told him I was coming over to the hotel.

"Q. How soon after that did you go over to the hotel? A. About ten minutes.

"Q. Did you find Mr. Moffitt at the hotel? A. Yes, 3763
sir.

"Q. Where did you go to talk with him? A. In the office of the hotel.

"Q. Right in the front office? A. Yes, sir.

"Q. Will you give the conversation—who opened the conversation? A. I did.

"Q. What did you say? A. I says, 'Mr. Moffitt, I understand my label has been stopped.' He says, 'Yes,' I says, 'On account of my buying hats from Loewe?'

"Q. You said that? A. Yes, sir. He says, 'yes,' he says, 'If you will sit down I will give you an explanation of 3764
it.' Mr. Moffit said he didn't care to sit down.

"Mr. Beach:

What?

"Witness:

Mr. Moffitt stated that he didn't care to sit down.

"Q. You were the one that said, 'If you will sit down I will give you an explanation of the matter?' A. Yes, sir.

"Q. What did you mean by the matter? A. I meant that I would give him an explanation that would warrant

3765 me in having my label for my stiff hats; that is, I supposed I could at the time.

"Q. Well, did you give him that explanation? A. I did.

"Q. What was the explanation? A. I told him that I had a call from a Western salesman for Mr. Loewe's line of goods, and that in order to hold him on stiff hats in which I was principally interested that I wanted to get the Loewe line. I stated I went to Mr. Loewe and he told me that he couldn't give me the line because he was selling to the jobbing trade, but if I wanted to job the hats, why then I 3766 could have the line, and Mr. Moffitt stated that it didn't make any difference as long as I bought hats from D. E. Loewe I couldn't have the label.

"Q. Well, this customer that you wanted to give the Loewe line of hats was a retailer? A. He was my Western salesman.

"Q. Didn't I understand you to testify that your Western salesman wanted the Loewe line for some customer? A. He wanted it for his trade.

"Q. Oh, for his general trade? A. For the Western trade.

3767 "Q. I didn't understand you. And to whom did your salesman sell hats? A. To whom did he sell them?

"Q. Retailers or jobbers? A. He sold the retail trade.

"Q. And will you state again why it was Mr. Loewe said that he couldn't furnish his line of hats to this man direct, this salesman of yours? A. Yes, sir, as he wasn't selling to retail trade. He was selling to the jobbing trade exclusively.

"Q. He wasn't selling to retail trade? A. That is right.

3768 "Q. What did Mr. Moffitt say after you gave him this explanation? A. I told him that I would fetch him a letter showing that I had quit buying hats from D. E. Loewe."

Mr. Merritt:

"Q. Why did you tell Mr. Moffitt that you would fetch him a letter? A. I did it to show Mr. Moffitt that I had quit D. E. Loewe & Co. buying hats."

Mr. Merritt:

"Q. Did you ever get that letter, as you stated to Mr. Moffitt you would? A. Did I ever get it?

"Q. Yes. A. I did.

"Q. Did you go to see Mr. Loewe personally concerning it? A. I did. 3769

"Q. And he gave you a letter? A. Yes, sir.

"Q. What did you do with that letter after he gave it to you? A. I presented it to Mr. Maher, James Maher.

"Q. Who is Mr. Maher? A. I believe he is the National Secretary of the United Hatters.

"Q. And did you tell Mr. Maher what you wanted him to do with it? A. Yes, sir.

"Q. What did you tell him? A. I said, will you kindly hand that to Mr. Moffitt; he said he would.

"Q. Was the union label in your stiff hats of value to you? A. I considered it was. 3770

"Q. And can you state whether or not you regarded its loss as a detriment to your business? A. I believe it was.

"Q. Where did you sell these hats which you obtained from Mr. Loewe? A. Sold them West.

"Q. Did you sell any in the state of Connecticut? A. No, sir."

Mr. Beach:

A cross examination of two or three questions.

"By Mr. Beach:

"Q. Where was your factory in 1902? A. Where was my factory? 3771

"Q. Yes. A. Danbury, Conn.

"Q. And how many men did you employ? A. One."

Mr. Merritt:

Now Your Honor, I would like to read the testimony of Gustavus P. Reed, who testified at the former trial. Mr. Reed has since died, and I take it that that statement need not be proven.

Mr. Beach:

It may be stated on the record as a fact, Mr. Reed's death. 3772

Mr. Merritt:

"GUSTAVUS P. REED,

called by the plaintiff, sworn by the clerk.

"Q. (The Clerk.) What is your full name? A. Gustavus P. Reed.

"Examination by Mr. Merritt:

"Q. What is your business, Mr. Reed? A. Salesman.

3773 "Q. And you are salesman for the concern of D. E. Loewe & Co., are you not, the plaintiff? A. D. E. Loewe & Co., yes, sir.

"Q. The plaintiffs in this action? A. Yes, sir.

"Q. How long have you been acting in that capacity for them? A. For Loewe?

"Q. Yes. A. About twelve years.

"Q. That would place it about 1897 when you first went with them? A. Yes, sir.

"Q. Prior to that time had you had any experience in selling hats? A. Yes, sir. About thirty-five years.

3774 "Q. That is, you have been engaged in the business of selling hats as salesman for about thirty-five years? A. Thirty-five years, yes.

"Q. And prior to 1897, did you have anything to do with the sale of hats of D. E. Loewe & Co.? A. Yes, sir.

"Q. Or whatever the firm was at that time? A. I did, yes, sir.

"Q. And in what way did you? A. Through another concern, E. V. Connett & Co. .

"Q. E. V. Connett & Co. is a commission house, is it not? A. A commission house, yes, sir.

3775 "Q. Did D. E. Loewe & Co. prior to that sell their hats through Connett & Co.? A. Yes, sir.

"Q. And you were employed by E. V. Connett & Co. to take charge of that line? A. Yes, sir.

"Q. I wish you would tell the jury, in a general way, your practice in connection with the sale of hats since the time you have been employed by Mr. Loewe, in 1897; that is, what trips did you make in a year, in a general way? A. I made about two trips a year, sometimes more.

"Q. And what is the period of your first trip? A. What is that?

3776 "Q. The period covered by your first trip? A. Why, about four or five weeks.

"Q. And what month of the year did you usually start? A. Why, usually in January, and July; every six months, about.

"Q. I see. And what territory did you cover?

"Q. Your practice during all this period of time has been substantially the same? A. Yes, sir.

"Q. And what territory did you cover prior to 1904?" There is another interruption here.

"Q. Well, Mr. Reed, I will ask you whether during the time you were employed by Mr. Loewe subsequent to 1897, you have sold any other hats than those of D. E. Loewe & Co.? A. I did, yes, sir. 37773

"Q. What house? A. Those of Connett's. E. V. Connett.

"Q. Subsequent to 1897? A. Yes, sir.

"Q. And when did you sell hats for E. V. Connett & Co.? A. Where?

"Q. When? A. I was with them about ten years.

"Q. Subsequent to 1897? A. Up to then, yes.

"Q. No, I am asking you now for the period following 1897. Whether you sold any hats besides those of D. E. Loewe & Co.? A. Well, I took some of their hats with me at the same time. 37784

"Q. With Mr. Loewe's hats? A. Yes, sir."

Mr. Merritt:

"Q. Well, now, taking that period of time, 1901 to 1903, inclusive, I understand you made two trips a year, as a general rule? A. As a rule, yes, sir.

"Q. And these trips were made, one in six months and another in a subsequent six months of the year? A. Yes, sir. 37795

"Q. Now, going back to the original inquiry, will you tell me whether you have handled any of Mr. Connett's hats since you left Mr. Connett's place? A. No, sir.

"Q. Then the fact is you have handled only Mr. Loewe's hats since 1897? A. No, sir.

"The Court:

That is what I had supposed before, that he had been carrying Loewe's as a side line until the time that he went with Loewe, and then handled nothing but Loewe's hats.

"Witness:

Yes, sir. 37803

"The Court:

After you came into Mr. Loewe's employ in 1897, you carried Mr. Loewe's line alone?

"Witness:

Yes, sir.

"Q. Now, will you state what territory you covered in these two principal trips to which you refer? A. The South and West, both.

"Q. How far West? A. Why, as far as Omaha, Kansas City and Omaha.

3781 "Q. Did you go up in the Northwest at all? A. St. Paul, Minneapolis, around different points there.

"Q. Well, you practically covered all the territory this side of the Mississippi River? A. Yes, sir.

"Q. And was that territory covered in both of these trips to which you refer, the spring trip and the fall trip? A. Yes, sir.

"Q. Did you make any shorter trips during the year? A. Oh, I often went to Philadelphia, Baltimore.

"Q. Did you name Philadelphia? A. Went to Philadelphia and Baltimore, yes, sir. Philadelphia more frequent.

3782 "Q. Any other neighboring cities? A. No, not particularly, no, sir.

"Q. Didn't go to Boston? A. Well, yes, I forgot Boston.

"The Court:

Did you go to Baltimore, Mr. Reed?

"Witness:

I went to Baltimore and Philadelphia.

"The Court:

Did you go further south?

"Witness:

3783 Not on these middle trips, no, sir.

"The Court:

Didn't go to Richmond?

"Witness:

No, sir.

"Q. And how often did you take these shorter trips during this period? A. Well, I can't say, if it is more I used to go.

"Q. Now I wish you would outline the way in which you sold these hats; I first understand that Mr. Loewe has a store or office in New York, has he not? A. Yes, sir.

3784 "Q. Where samples are on exhibition? A. Yes, sir.

"Q. And you have charge of that store? A. Yes, sir.

"Q. Are hats sold through this store without taking any trips? A. Oh, many of them, yes, sir.

"Q. Customers come to the store? A. Always, yes, sir.

"Q. And they examine the samples, I suppose, and place their orders based on these samples? A. Yes, sir.

"Q. And is there anyone else in that store who sells hats during your absence? A. Yes, sir, I have a man there.

"Q. What is his name? A. Loomis, Charles N. Loomis. 3785/93

"Q. And when you are away Mr. Loomis meets the customers then? A. Yes, sir.

"Q. Well now, will you explain just how it is you sell hats when you take a trip to those various cities in the West, etc.? A. I go to a city and go to a hotel, hire a room, apartment, open up my samples, and go and get the people to come and see them. Sometimes I take them out to them as occasion requires. That is all.

"Q. Referring to the people you are referring to the dealers in the community where you are? A. Yes, those 3786/94 that I see, yes, sir.

"Q. And do you obtain orders then from these people at times when you are on these trips? A. Do I what?

"Q. Do you obtain orders from the people at this time when you are on the trips? A. Yes, sir.

"The Court:

What do you mean by 'people,' Mr. Reed? Do you sell entirely to jobbers or retailers?

"Witness:

Mostly the jobbing trade, occasionally some of the larger retailers. 3787/95

"The Court:

Large retailers once in a while, but principally to jobbers?

"Witness:

The jobbing trade as a rule.

"Q. Now I will ask you, Mr. Reed, whether the greater portion of the hats sold through you are on account of orders obtained when you were actually on the trip? A. Why they buy then mostly the sample lines, and depend a great deal on the duplicates by what they buy then.

"Q. And by duplicates you mean the orders that come 3788/96 in after you return from your trip? A. On my return from a trip, and the duplicates during the season.

"Q. Then what I understand is that the greater portion of your orders are not those obtained when you are merely visiting a customer? A. Well, they amount to—no, they are not the larger portion of them, the duplicates are the larger.

"Q. Now after you obtain these orders what do you do with them? A. Why, I send them to the factory.

3789 "Q. That is, to the factory of D. E. Loewe & Co. at Danbury? A. Yes, sir.

"Q. And they are filled at the factory? A. Yes, sir.

"Q. How are they shipped, if you know; do they go to your store at New York? A. No, sir, they are shipped mostly direct, a few of them go to the store, according to who they are for. They are all shipped direct from the factory through New York, of course. They go to New York and are shipped from there on.

"Q. But they don't go through your hands? A. No.

3790 "Q. Do you have customers in New York City? A. Yes.

"Q. A considerable number or a small number? A. Well, I have about five or six.

"Q. Do you do a considerable amount of business with these customers? A. Yes, sir.

"Q. In the dealings with these customers were the hats shipped directly to them or do they go to your store? A. They are shipped directly to them.

"Q. Which is really all you have to do with it, is it?"

"Q. That is all you have to do in connection with taking orders, is to secure these orders and pass them on to the fac-

3791 tory of D. E. Loewe & Co.? A. Yes, sir."

Adjourned to Monday afternoon at 1:15 o'clock.

Session of September 16, 1912.

Mr. Merritt:

When we adjourned I was reading the testimony of Gustavus Reed, and I will continue where I left off. Mr. Reed, you will remember, was salesman for the plaintiffs.

"Q. Will you state whether your salary or any remuneration which you secure comes from D. E. Loewe & Co.? A. It does, yes, sir.

3792 "Q. Do you have anything to do with the firm of Triest & Co.? A. I usually sell the line to him, yes, sir.

"The Court:

"Well, we are trying to get at what you did in 1900, 1901 and 1902, Mr. Reed. You evidently thought he meant what you are doing now. The question is what you did in 1900, 1901 and 1902?

"Witness:

"Yes, sir, that is what I did then.

"The Court:

"You were selling then to Triest & Co.?

"The Witness:
"Yes, sir, I was.
"The Court:
"You didn't tell the jury you were on the Pacific slope?
"The Witness:
"No; but he comes to the store every 6 months.
"Q. Well, do Mr. Triest's orders from the West come to your store? A. He comes to the store and orders his goods from the sample line, and duplicates them afterwards from home, I suppose. 3793
"Q. Well, do his duplicates come to your store? A. No, sir, they go direct to the factory. 3794
"Q. I will ask you whether you ever dealt with William P. Montague? A. No, sir, I don't.
"Q. That is not one of the accounts that comes under your supervision? A. No, sir.
"Q. And Delano & Wheeler of Boston? A. No, sir, I have nothing to do with them.
"Q. I will ask you the same question in regard to W. E. Middlekauf of Baltimore? A. No, sir, I have nothing to do with them.
"Q. These are accounts that don't come under your supervision? A. No, sir. 3795
"Mr. Taylor:
"Did he claim that Triest & Co. was a customer of his?
"The Court:
"He said Mr. Taylor, that Triest came to the store every 6 months and bought from samples and then sent his duplicates direct to the factory.
"Q. Did you get commission on the goods sold to Triest & Co.? A. No, sir.
"Q. Or goods sold to Delano & Wheeler? A. No, sir.
"Q. Or goods sold to W. E. Middlekauf? A. I don't.
"Q. Or goods sold to Montague, or made for Mr. Montague? A. No, sir. 3796
"Q. I will ask you, Mr. Reed if you have any personal knowledge of a strike that took place in the factory of D. E. Loewe & Co.? A. I have.
"Q. Where were you when that strike took place? A. In Danbury.
"Q. You were there for what purpose? A. To get up my line of samples.

3797 "Q. And do you remember about when that was? A. About the 25th, I think, of July; 24th; that week I was up there.

"Q. It was in the latter part of July? A. Yes, sir.

"Q. In the year—"

The year as stated here is wrong. It should be: "Q. In the year 1902? A. Yes, sir.

"Q. And for what purpose were you to get your samples at that time? A. To go away to the West and South.

"Q. Was that in connection with one of your regular trips? A. Yes, sir.

3798 "Q. And prior to that strike when you went to Danbury for the purpose of getting up these samples when were you planning to start out on your trip? A. As soon as I could get them up and get out, they told me.

Q. In the ordinary course of affairs when did you expect to start? A. Well, I should have started in the first week or two in August, as soon as they were made.

Q. When did you actually start, or did you go at all at that time? A. I didn't go.

Q. And why didn't you go? A. Well, on account of the strike.

3799 Q. What did you mean, Mr. Reed, when you said you felt you couldn't get any goods? A. Well, on account of the strike; they weren't making any goods.

Q. Well, was it a question simply that they stopped giving samples? A. Yes, sir, I couldn't go out without having them.

Q. Well, what effect, if any, did the strike have on your ability to fill orders? A. I couldn't get the goods.

Q. When did you take your next trip, Mr. Reed, for the purpose of selling hats? A. About October or November, as near as I can remember.

3800 "Q. Was that in 1902? A. Yes, sir.

"Q. Can't you place it any closer than that? A. No, I don't remember.

"Q. And where did you go, Mr. Reed; when you started out where did you go? A. I think I went to Baltimore first.

"Q. There are some records you gave me, Mr. Reed; I think they pertain to this trip. I would like to have you examine them for the purpose of refreshing your memory, and then state if you can when you started on this trip? A. Well as near as I can remember, it was about September or October.

"Q. You think you started this trip in September or October? A. Yes, sir. 3801

"Q. Do you find any records here? A. No; they are orders that were given at different times there; I can't remember that; it is so far back that I have forgotten that.

"Q. Well, I will ask you Mr. Reed, whether at that time you were guided by instructions from Mr. Loewe as to when you should start out? A. Why, he usually left that to me.

"Q. Did he leave it to you at this time, or did you confer with him concerning it? A. Why, I think we did confer together about that. 3802

"Q. Where did you go on this trip; did you cover the territory generally to which you have referred? A. I think I did, yes, sir; may have left some of them out; I don't just remember all of them.

"Q. Did you take another trip prior to August 31st, 1903? A. I think I went in January.

"Q. Were you accustomed to sell the account of Longley, Lowe & Alexander in Chicago? A. Did I what?

"Q. Were you accustomed to sell the account of Longley, Lowe & Alexander in Chicago? A. Yes, sir. 3803

"Q. And did you sell them on either of these two trips between the first of September, 1902, and the last of September, 1903? A. I did.

"Q. On which trip? A. I think I sold them in both.

"Q. Have you been able to sell them since then?"

Mr. Beach:

That is objected to on the ground heretofore stated, I think; proof of damage subsequent to the commencement of the action is inadmissible.

The Court:

That would be admissible on this theory, that of minimizing damages as much as the plaintiff could. 3804

Mr. Mulholland:

Save an exception.

Mr. Merritt:

"Q. Have you been able to sell them since? A. I have not."

"Q. And did you call on Mr. Brown of Brown & Co. of Cincinnati, Ohio, on one of these visits? A. I did.

Mr. Merritt:

3805 "Q. And did Mr. Brown have anything to say to you concerning this same matter? A. Yes, sir."

Mr. Mulholland:

Objected to; that is the same thing.

Mr. Merritt:

All that I am offering, your Honor, is this instance, as to this customer is his refusal.

The Court:

Yes, I find one place where he says he didn't buy.

Mr. Merritt:

That is all we want.

3806 The Court:

I think that is admissible. It is admissible not as proof of the things that were said to him, because that is hearsay; but it is proof that the information that he received led him to refuse to buy of the plaintiff.

Mr. Mulholland:

Save our exception.

Mr. Merritt:

I am reading, in order to straighten this matter out, from the bottom of page 1107, folio 4228.

3807 "Q. And did you call on Mr. Brown of Brown & Co. of Cincinnati, Ohio, on one of these visits? A. I did.

"Q. And did Mr. Brown have anything to say to you concerning this same matter? A. Yes, sir."

Mr. Mulholland:

An exception.

Mr. Merritt:

Then I skip down:

"Q. What did he say, Mr. Reed?"

May I read the witness's answer?

The Court:

3808 I think you may read it. These questions are not numbered, I see, but the witness said, "Well, he would have to stop buying our goods, that is all; and he did so." That is what you want to read?

Mr. Merritt:

Yes.

The Court:

That you may read subject to their exception, and for the purpose that I have just now stated, and that only.

"Witness:

Well, he would have to stop buying our goods, that is all; and he did so." 380

Now I go over to folio 4434:

"Q. Did you on one of these same visits call on Mr. Gauss of the Gauss-Shelton Hat Company of St. Louis? A. I did.

"Q. What, if anything, did Mr. Gauss have to say concerning this matter?"

Mr. Mulholland:

Objection.

The Court: 381

Well, I should say, as I understand the law, that it is admissible for the sole purpose of showing the condition of that customer's mind. He referred in his answer there to Berg. That would have to be proved in some other way, because it is hearsay as to that; but the fact having been established by other evidence that Berg did have like trouble, and if the testimony tends to show what has operated on his mind and led him to the conclusion not to buy the plaintiffs' goods, purely for that purpose, I think it is admissible. In fact, I don't think there is any doubt about it. It would be hearsay if you wanted to prove that Berg had trouble by this customer's statement to this selling agent. That would be purely hearsay. 381

Mr. Merritt:

May I read it, your Honor?

The Court:

If you like.

Mr. Mulholland:

Save an exception.

Mr. Merritt:

"Q. What, if anything, did Mr. Gauss have to say concerning this matter? A. Why, he said that he didn't care to buy or look at my goods and told why; 'why' he said 'I have been called upon by the Unions, and I don't propose to fight other peoples battles.' He said 'I had some trouble with Berg, and don't want to get into any more trouble, and I don't propose to buy any more goods, or look at any more of your line on that account.' He said 'I don't wish to fight other peoples battles.' 38

I turn to folio 4445.

"Q. Did you do business with a man by the name of E. R. Wessels of Jersey City? A. Yes, sir.

813 "Q. Were you doing business in 1902 or 1903 with this man prior to September 1st? A. Yes, sir.

"Q. Did you have any conversation with Mr. Wessels concerning a matter of this kind? A. Yes, sir.

"Q. What did Mr. Wessels say?"

Mr. Mulholland:

Object; same reasons.

Mr. Merritt:

"Q. You have given the names of a great many customers as to some of them you said that they stopped buying from you? A. Yes, sir.

814 "Q. And as to the others you didn't say whether they stopped or not. A. They most all stopped.

"Q. What? A. They most all stopped.

"Q. Whatever the fact is they all stopped prior to the middle of September, 1903. I presume that will show from the books, won't it?"

Mr. Beach:

I guess that should read "Whether the fact is."

The Court:

Well, the answer clears it up.

Mr. Merritt:

815 "A. I expect so."

I will read from Plaintiff's Exhibit 5 for identification, which is the convention proceedings of the United Hatters of North America for 1907.

Mr. Beach:

That is objected to.

The Court:

This is the report of what? The United Hatters of North America? You may read it.

Mr. Beach:

816 We object to it, being subsequent to the date of the beginning of the suit.

Mr. Mulholland:

Save an exception.

The Court:

Well, that is limited, of course. It may be received for the present time as bearing upon the question as to whether the plaintiff used due diligence to minimize the damages by restoring his sales.

Mr. Merritt:

This is Plaintiff's Exhibit 5 for identification. I call

attention to the names of the following delegates as present at 3817
that convention who are defendants in this case: Daniel McInerney, Simon Blake, H. C. Shalvoy, Louis E. Orton, all of Danbury; William A. Vernon and John W. Sculley of Norwalk.

There were also present John A. Moffitt, Martin Lawlor and James P. Maher, Mr. Lawlor being also a defendant.

I am reading from President Moffitt's address:

"Fellow Delegates and Brother Workers in the cause of Trades Unionism.

"The Loewe suit which was the outcome of the fight made by the Union hatters to establish fair conditions in the Loewe 3818
factory, was instigated as a move to force this organization into disintegration—"

Mr. Beach:

(Interrupting.) In order to get our objection on the record fairly, your Honor, I want to say that we especially object to this declaration of a party who is not a defendant in this action, made subsequent to the beginning of the action.

The Court:

What is it you are reading?

Mr. Merritt:

I am reading from the report of President Moffitt, 381
which was ratified and approved at this convention—By some of these defendants.

Mr. Beach:

I object to it as an admission or declaration of any defendant on the ground that it was made subsequent to this suit, and binding only on the party that made it.

The Court:

Mr. Moffitt is charged here, and the evidence tends to show that he is one of the conspirators. If you find that he was, then his sayings are evidence of the fact 382
as against these other co-conspirators.

Mr. Mulholland:

Save our exception.

Mr. Merritt:

"The Loewe suit which was the outcome of the fight made by the United Hatters to establish fair conditions in the Loewe factory, was instigated as a move to force this organization into disintegration. As a part of the fight against the non union Loewe factory we had, as in

821 other fights, extensively advertised and urged dealers and .....not to buy hats unless they contained the union label, and had as extensively advertised the fact that the Loewe concern was not a union factory. In consequence of this advertising compaign a wide-spread boycott was made upon the Loewe product, which was prosecuted by labor unions generally."

From the same report I offer to read from page 15. (Showing the court.)

The Court:

822 You may read it. It is of the same character; under the same objection and exception.

Mr. Merritt:

"Early in the litigation of the Loewe case the plaintiffs secured a writ by which there was attached as security the property of all members in Connecticut. The purpose of this attachment, of course, as far as the Loewe's was concerned was to force all members into such financial straits as would compel them to make terms or surrender the fight against the Loewe factory. The property thus attached by the court order included the bank accounts of all of our members in that State, the total amount 823 of these accounts so attached aggregating $52,000. In order to relieve the members your Executive Board used money from the National Treasury to make these amounts good to the individual owners of the bank accounts. In each case taking an assignment of the money in bank, so that at the present time these numerous bank accounts held under attachment by order of the court are owned by this organization, and the individual members have not been obliged to lose the use of their money.

"One of the incidents in connection with the fight 824 that has been led against us by Loewe and the anti-boycott league, was the securing of a temporary injunction by the latter organization in the courts of California, restraining the boycott against the Loewe hats in that State. This injunction was directed at the State Federation of Labor of California, the City Central Labor Unions of San Francisco, and the National officers of the United Hatters of North America. The California organizations were restrained because of the aid and assistance they have been rendering us in our fight against the Loewe product.

"The California injunction case was to have been 3825
argued last year, but was postponed because of the earthquake and the confusion it produced, and has not yet been heard. Arguments are expected to be made in the case for a dismissal of the injunction upon our appeal in the near future."

Mr. Merritt:

I would like to read from page 61 of the same report, from report of committee on President's address, and the part I wish to read is paragraph 4 on page 62.

Mr. Mulholland:

Objection. 3826

Mr. Merritt:

This report of the committee on President's address is signed by the defendant William A. Brennan and the defendant Daniel McInerney (shows to court).

The Court:

Well, for the same purpose as stated before it may be received.

Mr. Mulholland:

An exception.

Mr. Merritt:

"We indorse the recommendation that we continue 382
our agents on the road, and that they be instructed to make a relentless fight against the Knox-Roeloff, and all other products of foul hat manufacturers in this country."

Mr. Merritt:

Then I call attention to page 84 of this same Exhibit, which discusses the report of the committee on the President's report, and acts upon this particular paragraph 4 which I have just read.

Mr. Mulholland:

Same objection. 382

The Court:

It may be received subject to exception.

Mr. Merritt:

"Recommendation No. 4 was read by the Secretary and adopted by a unanimous vote."

Then I want to read a resolution which was offered on page 75, and which was subsequently adopted and made part of the constitution of United Hatters, in rela-

3829 tion to putting agents on the road (shows same to court). The Court:

Subject to the same objection and exception it may be received.

Mr. Merritt:

"No. 41. Amend article 9 of the constitution by creating two new sections to be known as sections 15 and 16, section 15 to read as follows:

"The General Executive Board shall, and they are hereby empowered to appoint agents to be placed on the
3830 road for the purpose of agitating for and advertising the union label of the United Hatters of North America, and to perform such other duties as may be transmitted to them by the Board. The agents so appointed must be members in good standing of the United Hatters of North America.

"16. It shall be mandatory on the General Executive Board to appoint at least one agent from local associations having a membership of eight hundred members or more, who may be recommended for the position by the said local association or its executive officers."

3831 "James Byrne, Local Number 14," is the man offering the resolution.

"The communication was referred to the committee on laws."

Now I read from page 95 showing the fate of this resolution. It was adopted.

Mr. Merritt:

I will call attention to one other point before we adjourn, and that is that in the Journal for August 1902 on page 23, under the head of "Local Secretaries" appears the entry:

3832 "Orange Association. L. Stelpflug, 63 Valley Street, Orange, New Jersey." And the same entry appears in consecutive issues of the Journal for a considerable period of time.

The Court:

What bearing has that?

Mr. Merritt:

Mr. Montague testified that a man by the name of Stelpflug called on him, and he said he was local secretary, and I wanted simply to identify him for the purpose of the record.

Adjourned to tomorrow morning at ten o'clock. 3833

Tuesday, September 17th, 1912. 10:00 A. M. Morning Session.

The Court:

Proceed.

Mr. Merritt:

Your Honor, I want to read one or two other extracts from this Plaintiff's Exhibit 5 for identification. It is the Convention report of the United Hatters of North America for the year 1907. I think they all come under the same ruling of last night.

Mr. Mulholland: 3834

We have saved, I think, an exception.

The Court:

You want the same exception?

Mr. Mulholland:

Yes, to reading any of the matters of this Convention of 1907.

The Court:

Only received for the record purposes stated yesterday.

Mr. Beach:

You tell me where they are and unless I have some 3835
other objection, I will keep still.

Mr. Merritt:

Well, on page 18.

Mr. Beach:

We object to it on the further ground that it is connected with a different and subsequent transaction.

The Court:

Well, how is that material in this case.

Mr. Merritt:

Why, we claim it, Your Honor, in connection with the 3836
statement there that the usual methods are not effective against this house, because of the peculiar way in which they sell their goods; that this report was submitted to Committee on President's report, and they submitted a report which was adopted, to the effect that they continue the fight against Knox's Roelofs, Berg's and all other foul hat manufacturers. I am not interested in the Knox fight, but I am interested in the fact that the usual methods were not applicable to a concern which sells its own hats, and was only applicable to a concern who sells

3837 through dealers, because they can thereby intimidate the dealers.

Mr. Beach:

May I state that one of our claims is that even regarded as a definition of usual methods, the defendants are not bound by the declarations of anybody, supposing him to have been a co-conspirator in this transaction, made four years after the date of the complaint; but that if anybody is bound by his declaration made at that time it is himself alone.

3838 The Court:

Is that part of the same report.

Mr. Merritt:

Yes, Your Honor.

The Court:

Well, we will admit it.

Mr. Mulholland:

Save our exceptions to its admission.

Mr. Merritt:

In this same report of President John Moffitt to the 1907 Convention, under the heading: "The Knox Strike," I read this paragraph:

3839 "This fight is still in progress, and is likely to be a long one. It is a slow fight, because of the conditions under which it must be fought. As the Knox firm sells its hats through its own agency stores the usual methods are not effective against this house, and we have been compelled to resort to the old-time method of periodically taking the men out of the factory."

Then I will read from the same report on page 22.

Mr. Beach:

The same exception.

3840 Mr. Merritt:

It begins on page 22:

"Our friends and our enemies, Three firms of manufacturers that were within the union lines at the time of the last Convention have reverted since to non-unionism. These were Knox & Co. of Brooklyn—

Mr. Beach:

I object, Your Honor, to this recital of those facts as absolutely immaterial in this case.

Mr. Merritt:

Well, I won't read that first paragraph.

Vol. IV

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, [redacted] 1914

No. [redacted]358

MARTIN LAWLOR ET AL., PLAINTIFFS IN ERROR,

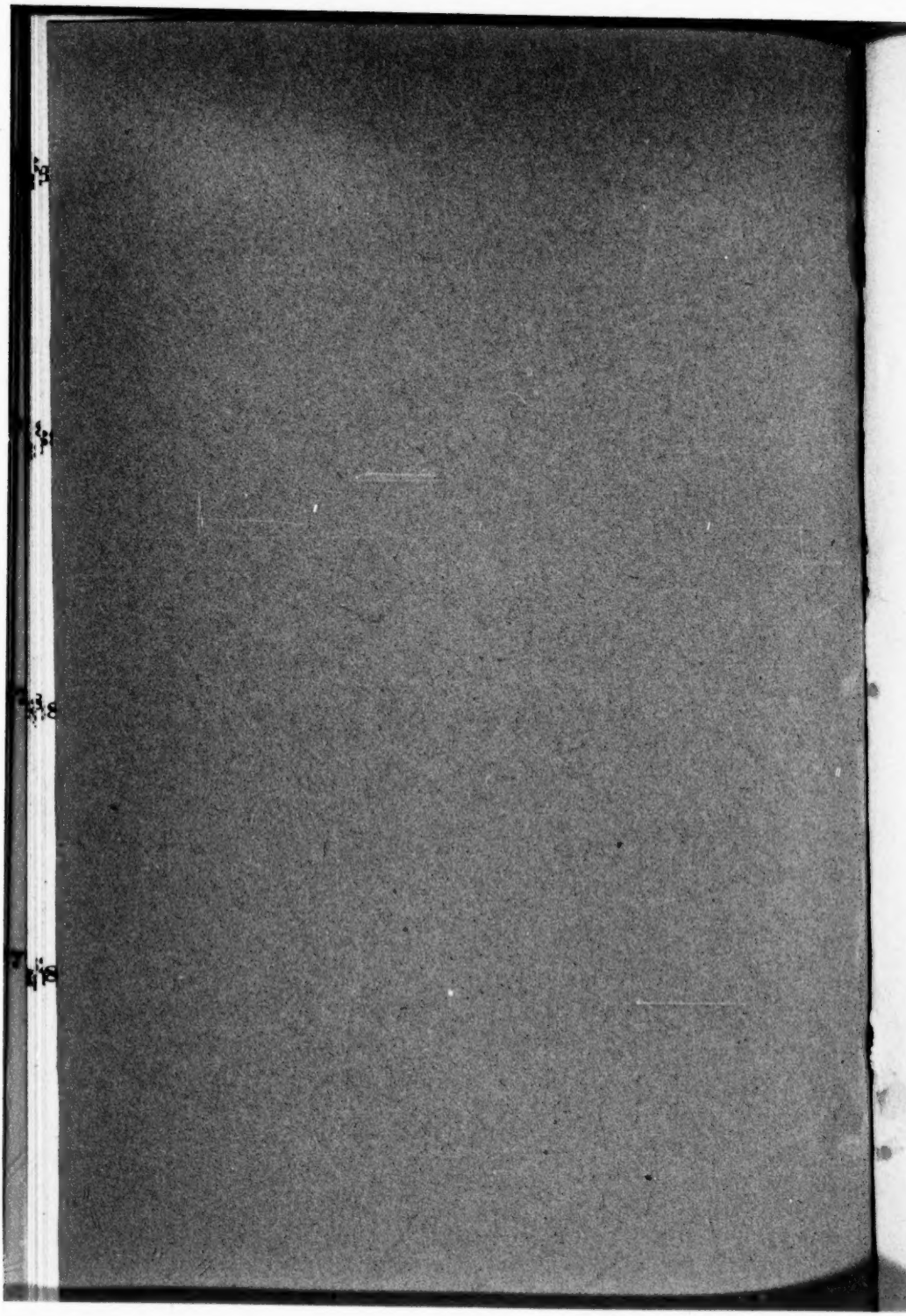
vs.

DIETRICH E. LOEWE AND MARTIN FUCHS, PARTNERS UNDER THE FIRM NAME OF D. E. LOEWE & CO.

IN ERROR TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

FILED FEBRUARY 10, 1914.

(24,051)



IN THE

United States Circuit Court of Appeals

FOR THE SECOND CIRCUIT.

No. .....

MARTIN LAWLOR ET AL.,

Plaintiffs in Error,
(Defendants Below.)

vs.

D. E. LOEWE ET AL.,

Defendants in Error.
(Plaintiffs Below.)

TRANSCRIPT OF RECORD.

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VOL. IV—Pages 961 to 1440.

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THE TOLEDO BRIEF & RECORD COMPANY,
PRINTERS.

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70	From Cal. State Fed. re Triest	3	599	3	599
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72	From Cal. State Fed. re Triest	3	607	3	607
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85	Loewe's Warning to Members	3	720	3	720
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54	Half Slave—Half Free			3	790
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103	Oregon State Fed. of L. re Triest	3	863	3	863
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107	Oregon State F. of L. Unfair Circular	3	878	3	878
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5	United Hatters for 1907	2	10		
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50	A. F. of L. for 1889-1892 inc. Boycott Resolution, pg. 48 for 1891	2	147	2	364
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51	A. F. of L. for 1893-1896 inc. Resolution Authorizing Publication of Amer. Federationist, pg. 39 for 1893.....	2	147	2	254
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Mr. Beach:

Well, as to any of it. 3841

Mr. Merritt:

"I believe it to be only right and proper that in this Convention the Roll of Honor and of Dishonor among the hat manufacturers should be called; and for this reason I here insert the list of union manufacturers and the list of non-union manufacturers.

"The fair shops now are Austin Drew & Co., Orange; A. C. Adams, Philadelphia; E. S. Andrews, Bethel; M. Budish, Newark; Baird, Untiedt Co., Bethel; F. Berg & Co., Orange; J. A. Bragg & Co., Hoboken; Beltaire Bros. 3842
& Co., Danbury; Bethel Manufacturing Co., Bethel; Brennan, Carr & Co., Orange; M. S. Cornell & Co., New York; Fred S. Crane, Newark; the Crofut & Knapp Co., South Norwalk; Connett Hat Co., Danbury; Crowe, Quinlan & Moore, Orange; Connett & Co., Newark; E. V. Connett & Co., Orange; A. S. Davenport & Co., Danbury; DeLury, Michael & Co., Danbury; Danbury Hat Co., Danbury; R. Dunlap & Co., Brooklyn; Ellor Bros. & Hall, East Orange; Farnum & Fairchield, Bethel; Ferry, Webber & Co., Newark and Newburg; Fishman & Co., Newark; Federal Hat Co., Philadelphia; F. Fouratt, Millburn, N. J.;—" 3843

The Court:

(Interrupting) These are the fair companies?

Mr. Merritt:

These are the fair Hat Manufacturers.

The Court:

How is that material? Why not say "and others?"

Mr. Merritt:

Well—and others. And then in "the unfair list the manufacturers who are fighting unionism are Thom & Bailey, Haverhill, Mass.; James Marshall & Co., Fall River, Mass.; D. E. Loewe & Co., Danbury; Meeker & 3844
Son, Danbury; Thom & Bailey, Peekskill, N. Y.; John T. Waring & Co., Yonkers; E. M. Knox & Co., Brooklyn; C. M. Hedden, Newark; Walkill Hat Co., Walkill, N. Y.; J. B. Stetson & Co., Philadelphia; Henry H. Roelofs & Co., Philadelphia; Alexanders, Reading, Penna.; C. M. Hendel & Sons, Reading; Hendel Bros, Reading; E. M. Knox, Boonton, N. J.; Reading Stiff Hat Co., Reading."

3845 Mr. Davenport:

In this Convention, Your Honor, I want to read first from the American Federationist for the month of December, 1903.

Mr. Mulholland:

To which we object.

Mr. Davenport:

Under the head of "What our Organizers are Doing. From International Officers." Under the heading "Hatters" on page 1308: "John Phillips."

Mr. Mulholland:

3846 Save an exception.

Mr. Davenport:

"Our trade in good condition. We are being sued by D. E. Loewe & Co. of Danbury, Conn., alleging damages at about $60,000 because we would not patronize their goods. We are not worrying over the matter."

And from the January, 1904, Federationist, on page 57:

Mr. Mulholland:

Save our exception.

Mr. Davenport:

3847 A similar report, what "Our Organizers are doing" under the heading of "Hatters" page 57: "John Phillips. Trade rather dull at present, but the prospects are bright for the coming season. The Anti Boycott Association and their law suit are advertising us and our union label immensely. Our members in Danbury, Conn. are out on strike for union wages and conditions."

Now I want to read from the November, 1903, American Federationist on page: 1150, under the heading "Hatters, Secretary John Phillips."

Mr. Mulholland:

3848 Same objection.

Mr. Davenport:

"Our International Association has accomplished the following things since November 1st, 1902: increase in wages of the rank and file; a greater demand for the union label; better understanding between employers and employed. We have experienced the great benefits of standing by our friends and the assistance rendered us by organized labor in refusing to patronize our opponents, as witness the suit brought against us by the Anti Boycott

Association for damaging the business of one of its members to the alleged amount of $150,000. While there has not been anything startling in our history during the past twelve months, yet we have made steady advances all along the line. The greatly increased demand for union made hats is to be mainly attributed to our friends in the ranks of organized labor who have so loyally and faithfully supported our union label." 3849

And then I want to read from the October, 1903, American Federationist, page 1038, "Editorial by Samuel Gompers."

Mr. Mulholland: 3850

The same objection and exception.

Mr. Davenport:

"A damage suit or prosecution to scare or intimidate us—well! A secret society has been formed in the city of Chicago calling itself the Anti Boycott Society. It threatens to proceed against the editor of the American Federationist for alleged participation in a boycotting conspiracy against some one placed or about to be placed on the 'We don't patronize list' of the American Federation of Labor. A damage suit is to be brought by the boycotted employer, and this secret society is to assume the cost of the suit. Being secret it can command neither confidence nor respect, since it may conceivably be organized for black listing or blackmailing purposes, or to provide a few impecunious shysters with a little business at the expense of foolish, misguided and incapable employers. 3851

We have a proposal of this contemplated suit a very funny editorial from the Chicago—"

"We shall continue to lay the facts before our fellow unionists and friends, and openly, under the protection of the Constitution of our country advise them to follow our example." 3852

The Court:

Well, that may be received, subject to their exception, although it does not seem to be material as evidence that may bear upon the policies that they acted under to date.

Mr. Davenport:

I am content. Now, in that connection, Your Honor, this paragraph from the October 1903, Federationist. That Federationist was published September 24th, 1903. Now I want

3853 to read in that connection, extracts from the minutes of the Executive Council held at Washington, September 21st to 25th, 1903, which has already been read in evidence in another connection.

Mr. Davenport:

Page 1192: "John A. Moffit, and P. H. Connelley, representatives of the United Hatters of North America, appeared in regard to a suit for damages filed against the United Hatters of North America and the officers of the A. F. of L. by D. E. Loewe & Co., in the Federal Court, for $100,000, and in the Connecticut Court for $240,000 against the United Hat-

3854 ters of America. The representatives of the United Hatters of North America stated that their attorney advised that it might be wisdom on the part of the A. F. of L. to have an attorney present when the case was heard in the state court, so that he would be familiar with and in a position to protect the interests of the A. F. of L. It was ordered that the matter of securing counsel to protect the interests of the A. F. of L. in the damage suit entered by D. E. Loewe & Co., of Danbury, Conn., was referred to President Gompers and Vice-President Duncan to take such action as occasion might warrant to protect the interests of A. F. of L. and the Executive Officers

3855 thereof.

Mr. Beach:

Now remember that those Executive Officers were made defendants in the state suit, although they are not parties to this suit.

Mr. Davenport:

Now the allegations, Your Honor, in both suits, as I think, no doubt, will come out before we finish here, were the same. One suit was brought in the state court and one was brought in the Federal Court for obvious reasons. One was that we had attempted an injunction in the state court, in

3856 addition to our claim for damages: but we can't of course make out our case all at once.

Mr. Merritt:

Mr. Loewe, will you take the stand?

Witness,

DIETRICH E. LOEWE. 3857

Sworn by Mr. Carroll.

EXAMINED

By Mr. Merritt:

Mr. Merritt:

Mr. Stenographer, you have the name.

Q. You are one of the plaintiffs in this action, Mr. Loewe? A. Yes.

Q. And member of the firm of D. E. Loewe & Co.? A. 3858
I am.

Q. And you were a member of the firm of D. E. Loewe & Co., in September, 1903, when this suit was commenced? A. Yes, sir.

Q. Who were the members of that firm when this suit was commenced in September, 1903. A. Martin Fuchs and myself.

Q. Were they the only parties who were members of that firm? A. Yes, sir.

Q. When did you first become connected with the hatting business? A. In 1871, and that is when I learned the 3859
trade.

Q. You learned the trade in 1871? A. Yes, sir.

Q. What do you mean when you say you learned the trade? A. I learned part of the trade, making hats.

Q. That is you learned it as journeyman? A. Yes, sir.

Q. Where did you first work at the trade? A. At the Tweedy Mfg. Co., Danbury.

Q. And that is where you learned the trade? A. Yes, sir.

Q. In what capacity did you work with that concern? 3860
A. As a hat sizer or maker.

Q. And you served in the same position as all of the other men employed in the making department? A. Yes, sir.

Q. Were you superintendent or foreman or anything of that kind? A. No, sir.

Q. How long did you worked there in that capacity? A. 'Till—well, for several years during the winter term; and I worked at something else during the summer because the trade was rather dull. That is true of 1872, 1873, 1874.

3861 Q. During each of those years you worked for the Tweedy Hat Mfg. Co. during the winter? A. Yes; that is, I say winter—that is from August to about April—March or April, in the Spring.

Q. I take it from April to August, then, was the period you refer to as being light business? A. Yes.

Q. Now during the period of from April to August of those years, what did you do? A. I worked at painting first, in a railroad car shop and later on in a carriage shop.

Q. What was your next connection with the hatting business after you left the Tweedy Manufacturing Co.? A.

3862 On my return to work—in 1874 I returned to Tweedy Mfg. Co. and the foreman of the finishing department wanted me to keep books for him, and later on would give me an opportunity to learn the finishing trade.

Q. Who was this foreman? A. Henry Stapleburg.

Q. And did he leave the Tweedy manufactory, or was about to leave it at that time? A. Did he, oh, no.

Q. Well, you went to keeping books for him in connection with the Tweedy Mfg. Co.? A. In his department, yes; they were very busy and it was difficult for him to keep the accounts of his department.

3863 Q. You remained employed by the same concern? A. Yes, sir.

Q. How long did you serve in the capacity of bookkeeper in the finishing department? A. About the latter part of September or the first of October, somewhere around there.

Q. That would be in the year 1875? A. 1874.

Q. Oh, in 1874. Then what do you do in connection with the hatting business, if anything? A. Why, then I went under Teach in the finishing room and served six weeks to learn the finishing trade.

Q. That is, you yourself started to work at the trade in

3864 the finishing room? A. Yes.

Q. And were taught the trade? A. Yes, sir.

Q. How long did you work in the finishing room of the Tweedy Mfg. Co. at the work of finishing? A. About September 1st, somewhere around there.

Q. What did you do next? A. A new concern started, one of whom was a son-in-law of the foreman, who wanted me to help the new concern along in starting the business.

Q. What was the name of this concern? A. Beckerlie & Grabert.

Q. Did you go with them? A. Yes. 3865

Q. About when? A. Early in December.

Q. And in what capacity did you serve with this new concern? A. As a journeyman.

Q. In which department? A. The making department.

Q. Did you hold any other position than an ordinary journeyman at that time? A. No, sir.

Q. How long did you work in the making department of this new concern of Beckerlie & Grabert? A. The early part of the following year I worked in it in the finishing room in finishing hats. 3866

Q. Please state yourself, in a narrative form, your history in connection with the hatting business? A. I remained there in the finishing room until about the first of October the same year, and then the firm dissolved and I returned to the Tweedy Mfg. Co., and worked there in the finishing room until about the middle of January of the following year, 1876, when a new concern was started, William Beckerlie & Co. I knew all those three gentlemen well, and they asked me to help them to start the factory, and take charge of the making shop, and I went there and worked there 'till May, and it was very quiet, and I was asked to go to the Meeker 3867 Bros.—or whether it was John T. Meeker & Bro., I don't remember now exactly what the firm was called; and I started there as a finisher. Mr. Meeker asked me to take charge of the flanging department, and I had charge of that department for about a year, when he asked me to take the foremanship in the finishing room. I remained foreman there 'till 1879. The firm got in difficulties, and then I started for myself.

Q. Did the concern fail? A. The concern failed, yes. I started with Mr. Edwin Target, and Herman Beardsley under the firm name of D. E. Loewe & Co.

Q. And have you always been doing business as one of 3868 the partners under the firm name of D. E. Loewe & Co., since that time? A. Yes, sir.

Q. How much capital did your concern start with? A. Started with?

Q. Yes? A. Oh, I put in a hundred dollars.

Q. Well, what did the others agree to put in? A. They agreed to put in the same amount, but they didn't have quite that much. We started with less.

Q. How much was it? A. Why, one had about $80.00 and the other man didn't put anything in but his experience.

3869 Q. You started with $180.00? A. Yes, sir.

Q. Now, if you will give briefly the history of that firm, showing the change of partners, etc., bring it down to the day of the suit? A. We started in the latter part of May or first of June, 1879, and by January, 1880, my partners became very tired of it because it seemed to be uphill work all the time, and they wanted to retire, and their interest was then bought by Mathias Heinzlemann, brother of my wife, and Charles Mutchsele who had married a sister of my wife, and we continued the manufactory under the same firm name. We had started in the so-called Sturtevant fac-
3870 tory in Beaver Brook, near Danbury, and in May we rented the factory what they call the so-called Union factory, where we are located now. We rented the factory and in 1882 we bought it.

Q. When did Mr. Fuchs come into the firm? A. In 1885 we decided to make stiff hats besides soft hats, and we wanted to get an experienced stiff hatter to come in with us and so we decided to take in Mr. Fuchs.

Q. And the other two partners were in also at that time? A. Yes, sir.

Q. So there were four of you in all? A. Yes.

3871 Q. Now when did the others retire? A. Mr. Heinzlemann died in 1894, and Mr. Mutchsele retired in 1901, and later died in 1905.

Q. During what period of time did you make stiff hats? A. From 1885 to 1896, I think.

Q. With the exception of that period of time have you made anything but soft hats during the entire existence of the concern? A. That is all. All soft.

Q. Just soft hats? A. Just soft hats.

Q. I wish you would now give in brief the history of the way in which you sold your hats, bringing it down to the
3872 time when you employed Mr. Reed? A. From the time we started the manufacture of hats?

Q. Yes? A. Why, when we started, we received material that goes into the manufacture of a hat from a commission house in New York.

Q. A commission house being a house that sells hats? A. Yes, and they style themselves manufacturers also, and sometimes they own manufactories where they made certain grades. We took this material and manufactured the hat for a certain price. We had nothing to do with the selling of the hats. They sent us the material and we manufactured the

hats as they sent us the material, and as they called for them. 387
Q. How long did you continue to do business in that way? A. 'Till 1886.

Q. Now then, continue, and tell what you did after that? A. In 1886 Sulley & Baker, for whom we had manufactured goods to this time retired and went out of business, and we had to look for other accounts. We didn't succeed very well immediately, and in order to have some business we began manufacturing goods by buying our material and placing the hats on the market which were sold through the commission house. Up 'till 1886 we had manufactured for one concern exclusively, but we had to divide 387
this up as we couldn't find another house readily to take the product of our factory.

Q. What was the name of the commission house? A. E. V. Connett & Co.

Q. Was E. V. Connett & Co. the last commission house you sold through? A. Yes.

Q. Down to what date did you sell your hats through E. V. Connett & Co.? A. I think to 1896.

Q. How long had you been with them? A. Since 1887, I think.

Q. What change did you make in reference to the sale 387
of your product in 1896? A. In 1896 Mr. Reed had gone out with another concern—

Q. Just tell who Mr. Reed was? A. Mr. Reed was a salesman of E. V. Connett & Co. and he also handled our line; that is he took our hats on the road and was supposed to look after our samples in the stores.

Q. That is he was the salesman employed by E. V. Connett & Co.? A. Yes, sir.

Q. Who sold their hats? A. Yes. He had different lines and one of them was ours. We didn't get enough business and one of the customers who had been buying our line 387
of hats was very much dissatisfied with the way he had been handled by E. V. Connett & Co., that is when he wanted to buy our line another line had been shown him, and he wired me—

Q. Well, you took Mr. Reed as your salesman after that time? A. Yes, sir.

Q. And opened a store in New York? A. Yes, sir.

Q. And you have since had a store in New York from which you sold some of your goods? A. Yes, sir.

3877 Q. And Mr. Reed was in charge of that store? A. He was.

Q. And up to what time was he in charge? A. Until he died, in 1910, I think.

Q. Well some time after the first trial of this case? A. Yes.

Q. Now tell us how you sold hats or were selling them in 1903, through this store and otherwise? A. As I was trying to state before, Triest & Co. who had been buying quite largely of E. V. Connett & Co., our line, had been shown some of Connett's own make instead of ours, and he
3878 wanted to buy our hats directly, and we made arrangements then—

Q. Just tell the way in which you sold your hats from the period of 1896 down to 1903. I assume that your practice was the same during that period? A. Yes.

Q. Just state how you did it? A. A few customers I sold myself.

Q. Can you give me the name of those customers? A. Triest & Co., William P. Montague Co., A. Laufer & Co. and later Wechsler, Laufer & Co.; Delano & Wheeler, of Boston; W. E. Middlekauff, and later the Selmore Co. of
3879 Baltimore.

Q. Now all the other customers you sold through this New York store? A. Yes.

Q. And Mr. Reed had charge of that and selling your hats to these other customers? A. Yes, sir.

Q. Now I just want you to explain briefly to the jury how Mr. Reed sold those hats? A. We had a line of samples showing the kind of hats we were making, the styles, and so on, displayed in the store in New York, of which Mr. Reed had charge. Two or three times a year he would go out and visit the customers and show the line of sample
3880 and receive their orders for them; and at other times they would come on their visits to New York and go in the store and place orders. The New York people would go to the store—that is the New York customers would go to the store; also most of the Philadelphia customers would make weekly trips to New York and then go in the store and place their orders, or give duplicates, whatever it might be.

Q. Was your relation to your customers simply that of buyer and seller? A. Yes, sir.

Q. Well, now, will you explain if you can to the jury the process of the manufacture of soft hats? A. The fur

hats are made of fur cut off beaver or like animals; but beaver 3881
is almost extinct, and today mostly rabbit fur or coney is being used. This fur is taken and mixed according to the quality of the hat that is to be produced. I have a sample here of fur cut from a Russian or German hare. This is today the most principal fur for the finer grade of hats. Then the next is English coney and Australian coney.

Q. I don't think you need go into the different grades of fur, after stating that there are different grades from different kinds of animals? A. Yes.

Q. Now what is done with the fur? A. The fur is mixed, put through what we call a mixer which throws it in 3882
a chamber and then from there it is taken out to what we call a blower which has anywhere from four to twelve chambers, and it is thrown from one chamber into another.

Q. Blown? A. Blown, yes.

Q. That is called the blowing room? A. That is in the blowing room, yes.

Q. Yes? A. From there it is taken to the forming room, and so much fur is weighed off for each hat, according to the weight of the hat that is wanted. Then this fur is put on the former, spread by an endless apron which constantly moves, and the fur is drawn in the dome. There is 3883
a cone placed on a turntable you might say, which turns that cone, revolves—

Q. The fur is sucked on the cone? A. And underneath is a suction blower which sucks the fur right onto that cone.

Q. That is called the forming room, Mr. Loewe? A. Yes.

Q. Does that come under the jurisdiction of the United Hatters? A. Yes, it does now.

Q. And that is one of the branches of making? A. Yes.

Q. Is that a hat taken from the former? A. This is 3884
a hat taken from the former (showing hat body); but when it is taken from the former a wet cloth is bound around it and a cover put over it, and then sunk into a vat of warm water.

Q. Do you know whether that is what has been referred to here as a green body? A. Then it is taken off and it falls right off the cone as the man turns it around, and it gives us a body in this condition (showing hat body), only it is wet and very tender; that is the least touch of your fingers

3885 is liable to separate the fur and make a defective spot in the body.

Q. Is that what has been referred to as a green body? A. Yes. Now the people that do this work are called coners and slippers.

Q. And they are under the jurisdiction of the United Hatters? A. They are now, yes.

Q. Well, were they in 1903? A. I think they were.

Q. Now what is the next step in the manufacture? A. These bodies are taken by the men and slightly rolled on a cloth to harden them, and they are called hardeners. Those

3886 people come under the jurisdiction of the Making Association, and always have been.

Q. The Making? A. Yes.

Q. Well, what is the next process? A. Then they go into the sizing shop and the hats are rolled there in hot water, or hot water applied to them constantly and rolled until gradually they form the felt as these bodies show (showing hat bodies). That has been worked some time, and it is fairly formed felt now so that it can be handled without any trouble.

Q. That is the hat after it has been sized? A. No, it has been partly sized.

3887 Q. Partly sized? A. Here is a similar body sized and the felting process completed (showing hat body). After that they are stiffened; that is a solution of shellac applied to the brim. The stiffening has been applied to that (showing hat body); dipped into a solution, and then run through rollers. Then from there it goes into a dye vat and is dyed. After the hats are dyed they are put on a machine, and this tip is stretched out in order to give it this shape (indicating). Then from there it gets onto what we call a brim stretcher. They pull out the edge of the brim and the stretching leaves the body in this shape (showing form). From the stretching ma-

3888 chine they go onto the blocking machine, and they get about this shape (showing form). All this work has to be done while the body is wet and hot. You can do a great deal with felt when it is in that condition, while in a dry, cold condition the felt is liable to break.

Q. Have you got to the point yet where the processes are covered by the Finishers' Union? A. I haven't reached that yet.

Q. Well, what is the next step? A. From the blocking room after they are thoroughly dried they go to the pounc-

ing room. The pouncing room takes the roughness off the bodies down to that condition (showing body). 3888

Mr. Mulholland:

Is that the first condition where the finisher gets hold of the hat? A. That was formerly in the Makers' Society, but I think in late years it has been claimed by the Finishers, although at one time I think it was claimed by both.

By Mr. Merritt:

Q. Well, all the processes prior to that come under the head of Making, or the Makers' Union? A. Yes.

Q. And all processes after that come under the Finishers' Union? A. Yes. From the pouncing room they are 3890 sent to the finishing room, but before they go to the finishing room a little solution of gum tragacanth and so on is then applied which we call squaring. Then they go to the finishing room and the finisher puts the body on a block of the shape and size that is wanted and called for, and the hat is ironed. This (indicating) is called the brim. This (indicating) the crown; this (indicating) where the brim starts is called the band; this (indicating) the side crown; this (indicating) the square; and this (indicating) the tip. This ironing formerly was done by hand. Today they are mostly done by automatic machinery.

Q. In 1902 and 1903 was it done by hand or machine? 3891 A. Well, mostly done by machine then. From the finishing room after the hat is finished it is rounded to give it a proper trim and a smooth edge. Then it is curled in the shapes that require any curling. If the brim is to be left entirely that way (indicating) why then, of course, no curling is done. Most flanges require a turned edge which was formerly done by hand by nowadays it is mostly done by a curling machine. Then they go to the trimming room where the band is put on.

Q. Now let me ask you a few questions about the trimming roomer. The trimmers are women as I understand it? 3892 A. Yes, sir.

Q. And they are not connected with the United Hatters of North America, or they were not in 1903? A. They were not; no. They had a union of their own.

Q. All other departments except the dyers, possibly, were connected with the United Hatters of North America, were they not? A. Yes, sir.

Q. About how many dyers do you employ? A. Well only one dyer, and the others are helpers that are employed in the department.

3893 Q. Then is it a fair statement that substantially all the male help in a union factory are covered by the United Hatters of North America? A. Yes.

Q. All right. Now tell us about the trimming. A. First the band is put on with a bow, and then the leathers are put in. Some are sewn right onto the hat this way (indicating). Others the leather is sown onto an oil silk and a reed, and put in a hat in that condition, as this shows (showing hat).

Q. That is a finished hat? A. Oh, yes—well, no, that is not entirely finished. This simply shows before the leather
3894 is put in. We used to put the lining in, but of late years there has been very little of it, until now it is coming in again. Some hats with a raw edge are left in that condition until it is flanged. I don't see a flanged hat here. Where binding is needed the binding is put on in the trimming room, and the stiching put on the brim, and then it goes down to the flanging room and a flanger puts the hat onto a shape that the hat is to have and puts a cloth over it, and dampens it, and irons it, or puts a hot bag on in order to get the shape of the flanges.

Q. The flanges control the shape of the curve of the brim, etc.? A. The shape of the brim; and then the hat is
3895 brushed, examined and put in boxes.

Q. And those band boxes are put in large wooden cases for shipment? A. Yes.

Q. How many do you pack in a case? A. The regular is three dozen in a case, but where you have different items to send out you place some times five or six dozen or more into a case.

Q. And you ship them in those cases by the railroads to your customers? A. Yes, sir.

Q. Can you tell me in the year 1902 at the time of the strike, July 25th, about how many hats you had in process
3896 of manufacture? A. Why, we must have had at least a thousand dozen in process of manufacture.

Q. They would be divided in the different departments? A. Yes.

Q. About how many hats would you have in each department? A. We were putting through at the rate of about a hundred and fifty to a hundred and seventy five dozen a day. In the make shop I would say about a hundred and fifty dozen. That was the capacity of that department. We had three forming machines and each forming machine would turn off about fifty dozen.

Q. How is that? You put through a hundred and seventy-five dozen in the Finishing Department? A. Well, in the making shop we manufacture for the stock room; we keep several thousand dozen hats in the stock in the stock room. 3897

Q. That is hats that are half completed? A. Yes, in the stock room. We apply them to orders and then this other work comes in like stiffening, blocking, stretching, coloring and so on.

Mr. Merritt:

And they are in a condition when they can be applied to varying styles and sizes? A. Yes.

Q. And do you know how many you had in the stock room approximately on the 25th of July, 1902? A. Anywheres from six to eight thousand dozen. 3898

By Mr. Merritt:

Q. When you said you were putting through a hundred and fifty dozen in the make shop, etc., does that mean you were putting through a hundred and fifty dozen in each department? A. About; we would have some in the front shop; that is in the finishing room, and some going through the flanging room.

Q. Did you have on hand some hats in the shop that were actually completed and ready for packing? A. Yes. 3899

Q. About how many days does it take you to fill an order, assuming that your factory is able to put that order through with reasonable speed? A. It takes about ten days. It can be hurried, of course, but if they go from one department to another a lot of time is taken a day and it would make about ten days.

Q. Is the hat business a seasonable business, or one in which the orders continue about the same during the course of the year? A. Oh, it is a seasonable business.

Q. What are the seasons? A. The spring season and the fall season. 3900

Q. Well, give the months as near as you can when those seasons are on? A. Well, they change. They are somewhat different today from what it was ten years ago.

Q. Well, we want 1903, as near as you can give it.

Mr. Davenport:

1902 and '03.

Q. 1902 and '03. A. 1902 and '03 we were able to run more steadily on account of selling the jobbing trade, and also having concerns like William P. Montague & Co. For the

3901 spring season we would get orders from the jobbing trade in the fall, some of them, but to be delivered early in the spring —early in the year like January and February; mostly in January and some in December. Then —

Q. (Interrupting.) Was that one of the seasons you have been referring to? A. The Spring season, yes. Then like William P. Montague & Co. and Delano and Wheeler, and so on, they would give us their orders in about November and December for January, February and March delivery.

Q. Well, in what seasons of the year, in the ordinary course of business, in 1902 and '03 was your factory at the
3902 busiest? A. Why in the fall season of the year. There are not many soft hats sold in the spring of the year.

Q. Well what time does the busy season begin in the fall? A. In 1902 we started in July.

Q. Can you give me the number of employees you had in your factory in 1902 at the time of the strike? A. I think two hundred and forty six (246).

Q. I think you'd better give them in the particular departments, the 246? A. This memorandum is taken from the pay roll at that time; forty four sizers; fifteen employees in the forming room, including the foreman, eight in the flang-
3903 ing room.

Q. In the flanging room? A. No, eight flangers; seven pouncers; five blockers and stretchers; sixty finishers; two rounders in finishing room; five in squaring up room; two working on curling machines; three working at pressing; seven on ironing machines in finishing room; two men and one boy at stiffening; seven in the coloring room.

Witness:

Six in packing room at packing; forty six in trimming room, all girls and women; besides that twenty six foremen and superintendents and so on of different departments.

3904 The Court:

Well, we will take a recess now for fifteen minutes.

Recess.

Q. Mr. Loewe, about what was your capital at the time of the strike in July, 1903? A. About—we employed about $130,000. Part of it was borrowed money.

Q. Part of it was borrowed money? A. Yes.

Q. Are you familiar with the term "floating trade"? A. I am.

Q. What do you mean by floating trade? A. There is certain trade that buys goods one season from this concern

and another from another concern; wherever they can strike the best bargain. **3905**

Q. Did you in 1902 or '03 solicit that trade—or 1902? A. I did not.

Q. And you didn't regard your own trade as floating trade?

The Court:

Did you have any floating trade? A. Oh, some; we never catered to that trade.

By Mr. Merritt:

Q. Have you ever met Mr. James P. Maher? A. I have.

3906

Q. When did you first meet Mr. Maher? A. I think it was in November, 1900.

Q. Do you know what office, if any, Mr. Maher held in the United Hatters of North America at that time? A. I didn't until I met him.

Q. What office was that? A. He was Treasurer of the United Hatters of North America, and also President of the local Makers Association.

Q. Of Danbury? A. Makers Union.

Q. Of Danbury? A. Of Danbury.

Q. How did you happen to meet Mr. Maher in November, 1900? A. He came to the factory and brought a letter of introduction. **3907**

Q. Is this the letter of introduction? A. Yes, that envelope is—yes.

Mr. Merritt:

Will you mark this as "Plaintiff's Exhibit 109."

(Marked Exhibit 109.)

I will read this.

Mr. Mulholland:

May I see it?

Mr. Merritt:

It is in the record. "Danbury, November 11th, 1900. **3908**

"Mr. D. E. Loewe,

Dear Sir: This will serve to introduce to you James Maher, President of the Hat Makers' Association locally, also he occupies the position of Treasurer of the National Association. He is desirous of having an interview with you, and not having a personal acquaintance with you, and knowing that I have he has taken this method for an introduction.

3909 "Hoping an interview between you and Mr. Maher will result to a mutual benefit, I remain,

Yours respectfully,

W. H. Foley."

Now will you give the conversation which took place between you and Mr. Maher on this occasion when he presented this letter of introduction, Exhibit 109?

Mr. Mulholland:

That is objected to.

The Court:

On what grounds?

3910 Mr. Mulholland:

Our original objection is that the conspiracy complained of in this litigation is a conspiracy of July 25th, 1902—alleged conspiracy.

The Court:

This was 1900.

Mr. Mulholland:

This was 1900.

Mr. Merritt:

Your Honor, it appears in the record of the minutes of the Board of Directors and General Executive Board of the 3911 United Hatters of North America that Mr. Maher reported back to them immediately or shortly after he had had this interview with Mr. Loewe, and that it was but the beginning of the step which finally led to the strike.

The Court:

He may state it.

Mr. Mulholland:

Exception.

A. Mr. Maher stated that he had come to see me to see if I would not meet the United Hatters of North America —that is the officers of the United Hatters of North America when on their visit to Danbury; that he thought it to my 3912 advantage and that we could talk over matters in a general way. I told him that I did not care to meet any people that did not belong to Danbury; that the officers of the United Hatters of North America were not Danbury people and had no interest in Danbury affairs. I would be willing to meet local officers, but did not care to meet any outside people. He stated that a good many factories had been unionized and those factories who ran union shops today—that is at that time—were happy, and were doing a more prosperous business, and it would be certainly to my advantage if I would take the

matter up with them. I told him that we were satisfied with **3913**
the condition of our factory and our business. That we had gone through a period of unionism in our factory lasting for about eight years, and during that time the business had been driven away from us, and also from Danbury; and now I felt, after building up a business on independent lines, that we should be left alone; the grade of hats that I was making could not be made under union conditions in Danbury, and I could not see I could not manufacture that grade of hats I desired, if they could be manufactured anywhere in the United States. He told me that such things could be arranged and he referred me to several manufacturers who had recently **3914**
unionized; that they were happy and that they could tell me that they were doing a nicer business. The factory was running more smoothly and they were all happy.

Q. Did you at that time absolutely refuse to unionize your factory, or did you take it under consideration; or what was the result of your interview with Mr. Maher? A. He said—asked me to think it over; that he didn't ask me to unionize at that time, he only asked me to meet the officers, who could make it clear to me.

Q. Make what clear? A. That it would be for my best interests to unionize the factory; and he said he would call **3915**
again in about a week, which he did. I told him that I had considered it, but I was not ready to give him an answer whether I would be willing to meet the officers of not. He told me then that he had to go away and would be gone a little while, so he would have to postpone it until his return. I then told him that I would write him my decisions, and I asked for his address, and I believe I put it, or he put it on that envelope of the letter of introduction.

Q. You think he wrote this? A. Whether he wrote it or whether I wrote that, I couldn't tell you.

Q. Forty six Town Hill Avenue? A. Yes.

Q. Which appears on Plaintiff's Exhibit 109? A. **3916**
Yes.

Q. I will ask you whether Mr. Maher stated to you where he was going? A. Why, he mentioned a convention.

Q. Did he state what convention he referred to? A. He mentioned once about the American Federation of Labor.

Q. Now, as I understand your testimony, you said that you subsequently addressed a letter to Mr. Maher? A. I did.

3917 Q. Did you mail the letter? A. I mailed the letter, yes.

Q. I show you a letter, and ask you if that is a copy of the letter which you sent? A. Yes, I think it is. Yes.

Q. And can you state whether you mailed this to the address which he gave you? A. I did.

Mr. Merritt:

I will offer this is in evidence as "Plaintiff's Exhibit 110."

(Marked "Plaintiff's Exhibit 110.")

Q. About when did you mail this, Mr. Loewe? A. I
3918 am not quite sure as to the exact date. It was a little later than that. I held it back on account of the fact that he sated that he wanted to go away, and I believe I mailed it when I found an item in the evening news that he had returned, or something like that; it was within a few weeks after that interview.

Mr. Merritt:

I will read this letter.

Mr. Mulholland:

To which we object.

Q. Did you have any discussion as to whether you
3919 should write him a letter or not? A. I had.

Q. What was that; did he request you to write a letter, or did you say you would write him a letter? A. I told him I would, and he said "very well, then."

The Court:

What is the objection to this?

Mr. Mulholland:

That if there is anything in it at all pertinent to this case it would be in the nature of a self serving declaration.

The Court:

You don't object to it as being a copy?

3920 Mr. Mulholland:

No, I understand they served notice on us to produce the original?

Mr. Merritt:

Yes.

The Court:

It is a history of the transaction, and I think it may be admitted. (Exception.)

Mr. Merritt:

"Danbury, Conn. Mr. James P. Maher, Dear Sir: When you called at our office this week you asked me to meet the Officers of the United Hatters of North America at some future day to discuss the advisability of unionizing our factory. You stated to me that it would be to our advantage to use the union label, but did not make it clear to me how this advantage would be brought about. Before arranging for any meeting with the national officers, will you kindly submit in writing for the consideration of my firm the reasons why it would be advisable for us to unionize our factory. As I explained to you, our firm are interested in knowing, first, how their especial interests will be benefited; second, how the condition of the people who work for us would be improved. Third, how the interests of the city or Town of Danbury will be better served than under the present arrangement. You will remember that I pointed out to you that our business had grown from a very small volume to one of very considerable extent and gives quite steady employment to a largely increased number of people—is more than ordinarily steady in its employment, and with as good an earning capacity as is possible with the existing conditions of competition. By the employment of both union and non-union people, we are promoting the interests of the city and town of Danbury. If all the shops were union in this city, what opportunity would there be for the people who desire to obtain a livelihood from the hatting industry? While we now provide work for those who would otherwise have but small opportunity for admission to your union, and include in our labor sons and daughters of people who belong to the union and who themselves and their parents desire the opportunity and right to obtain a livelihood in their native town in this long established and principal industry of the place. **3921** **3922** **3923**

"If you will kindly take this subject up, giving us in writing, details of improvement to be expected over the present condition, by unionizing the shop; first, to ourselves; second, to our employees; third, to the city and town, we will be glad to carefully consider the same. **3924**

"Desiring a fully reply, I am Cordially yours."

Now, Mr. Loewe will you tell me why it is in that letter that you refer to a visit which he made a week ago, if you mailed it on the date which you stated—when did you state that you mailed this letter? A. Within a few weeks after the second visit.

3925 Q. Well in the letter you say "When you called at our office this week"? A. I prepared the letter but held it back on account of that he said he was going to be out of town.

Q. And the best of your recollection is you prepared the letter within a week after he was there? A. Yes.

Q. When did you next meet Mr. Maher, or any other officer of the United Hatters in this connection? A. I believe it was on March 6th, the following year.

Q. That was March 6th, 1901? A. 1901.

Q. Well now, what happened first—

The Court:

3926 Did he receive any reply?

Q. In that connection did you receive any reply to this letter? A. I did not.

Q. Now what happened on March 6th, 1901? A. On March 6th I received a telephone call, and as I went to the receiver stated that it is Mr. Maher; the officers of the United Hatters of North America are at the Groveland and would like to meet you. We would like very much to have you come and meet them. I told him that I did not care to meet those officers coming from out of town—repeated substantially what I said to him before. "Well," he says, "there is no harm; we will

3927 treat you nicely. You had better come." I told him I would think it over. I then talked it over with my partner. Since I was going to luncheon at the Groveland anyway I thought there could be no harm in meeting them; so after lunch I met Mr. Maher.

Q. Now, just a moment; you went to the Groveland and had lunch? A. Yes.

Q. And after luncheon what happened? A. I met Mr. Maher in the office of the Groveland and he stated that the other gentlemen were at luncheon and would soon finish and would be here. I said "very well," so we sat down in the office

3928 and chatted awhile; when three gentlemen came in and then Mr. Maher introduced me to Mr. Moffitt, the President, and Mr. Phillips, the Secretary, whom I had met before, and Mr. Lawlor, the Vice-President. They invited me to go upstairs with them, and—

Q. I think you better give the full names of each of those men right here on the record.

The Court:

Is there any doubt about it?

Mr. Mulholland:

Martin Lawlor, John Moffitt, John Phillips and James P. Maher? 3929

Witness:

Yes, sir.

Mr. Mulholland:

It so stands on the record.

Mr. Merritt:

All right.

Q. Any one else, Mr. Loewe? A. Well, after we had been in the bed room there for a while—

Q. You went upstairs to a bed room? A. Yes. Mr. Barrett, the President of the Local Finishers' Association joined us. 3930

Q. Mr. Charles J. Barrett? A. Yes.

Q. Yes? A. Mr. Maher then stated that he had been to see me and had asked me to come to this interview, and I told him yes. Now he says we are all here, and we would like to talk this matter over with you. I then stated that I didn't care about going into that matter as I could not see my way clear why I should unionize the factory. Mr. Moffit then stated that all these factories who had unionized lately were very happy. They adopted the label and there was a growing demand for the label and that the factories were running very smoothly. Shop calls and turnouts had been done with; the laws had been changed and the condition in general was different from what it had been before when union factories had been—the way the union factories had been run before. I told him that I had my experience; that we had run a union factory for eight years, and under agreements which provided for arbitration in which I had been a great believer, but at the end of eight years we had lost most of our business which had been driven away from Danbury to other districts where there wasn't that restriction and the practice prevailing that we had in Danbury then when we asked for better conditions in 1893, and had conferred with the committees of the different organizations for four or five months they finally had all virtually refused us, although they had given the very same thing to a union factory in the same district only located outside of Danbury. 3931 3932

Q. Did you name the factory? A. Ferry, Napier & Co., I believe it was styled then, Newburg.

Q. Situated at Newburg, N. Y.? A. Yes.

3933 Q. Well, you stated that Mr. Moffitt told you that these other factories recently unionized were happy, etc.? A. Yes.

Q. Did you make any reply to that? A. Yes; I told him that the request of Mr. Maher I had visited two of those three factories that he had named. I didn't visit Mr. Berg because I wasn't very well acquainted with him, but I did ask Mr. Connett and he had been rather reluctant in giving his reply, wanting to know first how I was going to use it, and I told him that Mr. Maher had me referred to him, and I was going to take the reply back to Mr. Maher. Mr. Connett says in that case "yes, everything works all right." I then went to
3934 Mr. Meyer Mercy whom he had mentioned and he stated "don't you unionize your factory" was the first thing he said. "I have had nothing but trouble."

Mr. Mulholland:

Do I understand you told this to Mr. Maher?

Witness:

Yes, sir.

Q. That is he said it in the presence of all these gentlemen? A. Yes, sir. Then they said something about have I ever known Mercy to be happy? I said I didn't know him very well. Mr. Moffitt said I have never seen Mr. Mercy
3935 happy even under the best conditions. I told him I didn't know anything about that, only what he told me as to the condition in his factory; I believe he stated that the label had been taken away from him twice since he had adopted it.

Mr. Mulholland:

Just a moment; did you tell that to them?

Witness:

Yes, sir.

The Court:

I understand the witness is now stating the conversation which he had at that time with those gentlemen?

3936 Witness:

Yes, sir.

By Mr. Merritt:

Q. And you limit yourself to that conversation? A. Yes, sir.

Mr. Mulholland:

His last answer indicated that he was not, that is all.

Q. Did you state anything further concerning Mr. Ferry of Ferry & Napier? A. Yes. I told them that in 1885 and '86 when all the different factories endeavored to unionize

that Mr. Ferry had opposed it for the reason that it was a closed shop which he opposed; but later on that he had seen certain advantage in running a union factory, he had unionized, and Mr. Phillips, who was then Secretary of the Finishers'—National Association of Finishers, said that was so that he had opposed it at that time, and that he remembered well how he had opposed it. 3937

Q. That is you told these men that in 1893 or '4 Mr. Ferry had been given the advantage? A. 1885 and '6.

Q. Over the Danbury manufacturers; did they make any reply? A. Well, Mr. Phillips stated that—but this was in 1885 and '86. 3938

Q. Now I am talking about subsequent to that time, 1894 and '5. You stated did you not that Mr. Ferry had been given an advantage which was denied to the Danbury manufacturers? A. I told them; yes.

Q. Well, did they make any reply to that? A. They didn't make any reply to that.

Q. Now will you continue and state the balance of the interview? A. Mr. Moffitt stated that the laws had been changed, and asked me whether I had seen them recently. I told him no. I hadn't seen any of their laws and by-laws for some time, and he said "well, we are running those things entirely different from the way it used to be run, and he says "there is a very growing demand for the label." I told him that I couldn't see my way clear—that we had built up a business on independent lines, that the business had gone from us by 1893 and '4; and I knew that all the employees were satisfied, and we, as a firm, were satisfied with the way the business was running, and I felt that Danbury as a town was satisfied; and I couldn't see why it should be necessary to change the conditions. I wanted to be left alone. Then Mr. Moffitt asked Mr. Maher how many union sizers we employed. He said "about eighty per cent." Then he turned to Mr. Barrett and says "How many fair finishers does Mr. Loewe employ? "Why," Mr. Barrett replied "I think about half." Well, then "we will say fifty per cent." Mr. Moffitt said. Mr. Barrett said "Yes, about fifty per cent." And Mr. Moffitt said "I congratulate you Mr. Loewe in employing so many union people when there is such a demand for union help. It certainly speaks well." I told him I never discriminated in employment of union or non union help. I treated all alike, and I endeavored to get as good earning power as I possibly could as conditions would 3939 3940

3941 allow, and they must be doing well, and liked to work for me, otherwise probably they wouldn't be there, and that must be the reason.

Q. Go on. A. Then finally after talking over different things which I can't recall just now, he said "Mr. Loewe we called you here and laid this matter before you so that you could see it would be to your advantage to unionize your factory, and we have been talking this matter over, and I want to say that we have made up our minds that your factory is to be unionized and we hope to accomplish this in a peaceful way. However, if you don't, if you think otherwise, we shall force

3942 it." I jumped up from my seat, I says, "Mr. Moffitt, do you mean to say you want to use force if I don't come in peacefully"? He says, "Well, yes, to be frank with you, we will use force"; then after a little lapse said "that is, we shall create such a demand for the union label that you will be forced to unionize." Says I "If that is the case I have no further business here." "Well," he says, "think it over." I says "You have been talking about your constitution and by-laws that they have been changed." He says yes "do you want a copy"? I says "Yes." So somebody handed me a copy of the constitution and by-laws which I took and I retired. And he also

3943 said "Now think it over and communicate—you can communicate with Mr. Maher."

Q. Is "Plaintiffs' Exhibit 2" the same constitution and by-laws that they handed to you at that time? A. I don't think this is the one.

Mr. Beach:

We will agree that if it is not the identical one it is a copy of it.

Mr. Merritt:

The one which the witness now identifies is "Plaintiff's Exhibit 12" in this case.

3944 Q. Mr. Loewe, have you given all of this interview as far as you can recall it? A. As far as I can recall it now.

Q. Could you testify whether or not anything was said by Mr. Moffitt about the usual methods? A. Yes.

Q. Well, what was that? A. When he stated that he was in hopes that I would come in peacefully; that they had made up their minds that they wanted to unionize the factory, and if they could they hoped to accomplish it in a peaceful way; however, if I thought otherwise that they would use

their usual methods to bring it about. Their usual methods or —Yes, I think he said usual methods to bring it about. 3945

Q. Was there anything said at this interview as to what would become of your employees in the event that you should unionize? A. Yes, he mentioned the fact that there was still some of their union men on the road, and he says "You know we don't want all of your help as we want to—

Mr. Mulholland:

May we have who said that?

Witness:

Mr. Moffitt; we want to provide places for those who are on the road. 3946

Mr. Merritt:

Q. What do you mean by on the road? A. That is unemployed union men is what I understood.

Q. Well, I don't quite understand; just explain that again, will you? A. We were talking about the different help that we employed and union men that we had, and the boys. We went into that matter somewhat. I wanted to know how many boys or apprentices we could employ and he asked me how many finishers we employed and how many makers, and then he told me how many boys could be registered to the factory in these different departments, and he also asked me 3947 about how we finished hats, and I told him the way we did finish and when I got through he says, "Well, I don't see but what you finish hats just the same as they do in union factories, and as far as I can see your condition in the factory is such that it wouldn't require hardly any change—but very small changes to make it acceptable to the union conditions.

Q. Well, was anything said about whether or not all of your employees would be unionized? A. Well, he stated that—were unionized?

Q. Would be; in case you unionized your factory as to whether or not all of your men would be taken into the union? 3948 A. I don't remember that he said anything about that.

Q. You don't remember anything of that kind at this interview? A. No.

Q. And now when did you next meet any of these gentlemen in this connection? A. About a week after this conference Mr. Maher and Mr. Lawlor came to see me at the factory and asked me if I could give them my decision in the matter. I told them that I had been busy and had been looking into the laws they had what leisure time I had and found out

3949 things that I would like to ask them about, and if agreeable to them we could appoint a time the following week and talk the matter over. We agreed upon the following Wednesday, which I believe was the 20th of March to meet at the Groveland, and we met there.

Mr. Mulholland: Who?

Witness:

Mr. Maher, Mr. Lawlor and myself. I had been looking through the constitution and by-laws, and as you will notice, in that by-laws I have made several marks and written out several questions that I wanted to ask them, and as I asked them 3950 those questions after we met they gave me their replies and I put them down.

By Mr. Merritt:

Q. Have you that memorandum with you? A. I thought I had it here, but it may be over there, if I can look.

Q. Yes? (Witness leaves witness stand and looks among papers on the table.) No. I left it in my grip.

Q. And this memorandum which you made consisted of question written out before you went to the meeting? A. Yes, sir.

Q. And you noted down the answers? A. Yes.

3951 Q. In the presence of those men? A. Yes, sir. In some instances I read them back to them.

Q. What is that? A. In some instances I would read the answer back to them and see whether I had it down correctly.

Mr. Merritt:

Well, unless the gentlemen insist, I would rather take the memorandum as the evidence of the conversation.

Mr. Mulholland:

I don't think the memorandum is competent, if the Court please. The witness has not shown any necessity of refreshing his recollection in connection with that interview. 3952

Mr. Merritt:

I suppose, strictly speaking, that he could, if that is what you prefer.

Q. Now give me the conversation, Mr. Loewe, as to the best of your recollection.

The Court:

We will take a recess for one hour.

Recess until 1:30 P. M.

Afternoon Session, Tuesday, September 17, 1912.

3953

DIETRICH E. LOEWE

on the stand.

DIRECT EXAMINATION RESUMED

By Mr. Merritt:

Q. Mr. Loewe you were telling us of an interview which took place between you and Mr. Maher and Mr. Lawlor March 20th, where was this interview? A. At the Groveland Hotel.

3954 Q. Now if you will give the conversation as near as you can tell it. A. I told those gentlemen that I had been looking through their constitution and by-laws, and there seemed to be many passages which did not seem to me to agree exactly with the conversation I had with them, and I wanted to be clear on the subject; so, after getting these questions out we could take them up one after another, and they could give me the version of it as they understood, and how I was to understand it.

The first was as to the number of apprentices that I could employ, and I mentioned to them the number of finishers that we employed, and also the flangers and so on, that belonged 3955 under the jurisdiction, and also with the makers, and they gave me the number of apprentices; as I have it, finishing there would be six boys and the making department five boys.

Then I wanted to make sure of the jurisdiction, that is there were certain departments in the factory where we employed boys, and whether those places or this work would come under the jurisdiction of the United Hatters, and in order to make that sure I asked them definitely about these different places. So I asked them, "We notice that Union men must be employed for wining," (that really applies to stiff hatting, at the edge; a solution of shellac cut with alcohol is used to 3956 strengthen the edge, but it is not used in soft hats, and I thought I better get it as definitely as possible); rounding, pressing, squaring, curling, packing. What must we pay for these men per day? Their answer was by the piece if possible, that is they like to have everything done by piece work; by the day at three dollars per day, but squaring does not apply to soft hats; are in doubt as to curling. They explained that squaring was one of those that they never had taken up and they did not know, they couldn't tell whether the jurisdiction included some

3957 part of it; nobody but boys were ever employed at that work, and it never had been known that any regular journeymen had been employed, and they thought they better not express themselves definitely about it, and that they were in doubt about it, but they did not think it belonged to the jurisdiction of the Union, and as to the piece price, they would like a piece price; but if not, it would mean $3.00 per day for any men working by the day under the jurisdiction of the United Hatters. I asked them if they required the consent of the Local Union—whether the consent of the Local Union was required to pay such condition of $3.00 per day for any journeyman, and they
3958 said yes. Then I wanted to know how long binding to local and national association? The reason why I asked this was this: it was understood and known generally through the trade—

Mr. Mulholland:

Aren't we entitled to the conversation? I object to the witness interjecting into the testimony of alleged conversation, his opinion.

The Court:

Well, if he explained it that would show the conversation.

3959 Q. What was your question you asked them? The last question? A. How long binding to local and national association; can we have written promises, and for how long, and what rate per day.

Q. Now don't give your reasons for asking this question, but just state what the conversation was. A. Twice they laid out to me, or told me that the arrangement could be made, and I wanted to know what arrangements might be made. I knew that local unions or the employees would pass upon the bill of prices. And now I wanted to know whether
3960 they, as national officers, could make arrangements, or whether their arrangement had to be approved by the local union and the officers.

Q. How long an arrangement could be made? A. Their answer was binding for the term of the bill of prices only; can be renewed; and the chances are that they will be renewed if the same conditions prevail; wage regulated by the conditions; that was their answer or the substance of the answer.

The next was, rules as to damage in making department. As I have shown you today, this morning, when this body is

pressed a little bit to much, if not handled carefully, it will what they call stick together, and if pulled apart again and endeavor made to get that body free, it is liable to leave a streak which is a damaged hat, and that has been a serious question between the manufacturers and the makers as to the responsibility as to what we call streak, and I wanted to know how far the responsibility of those makers would be regarding that kind of work on a damaged hat. The answer was streaks caused by no fault of journeyman is meant to be covered by Section 4 of article 26 of the by-laws; any damage to the hat body caused by negligence of journeyman, he can be held responsible for. **3961**

The next was 55 hours per week, does that mean 5½ days at $3.00 per day, $16.50 per week, or does it mean 5½ days for $18.00 per week; if a man loses time during the first five days, how is he to be paid? To the first question the answer was, it means $16.50 for 5½ days, or in other words for the actual work done during that time. And the second is, how paid, at the rate of 10 hours a day. The question came up as to the time, for instance if for certain times through the year, when they run only three-quarters of a day, whether full time ought to be given or whether it would be paid at the rate of running time, and they replied at the rate of the running time. **3962**

The next was can minimum price be made direct with the shops crew without interference of local association or executive officers; does it mean that the local association establish a minimum price below which the shop crew cannot go? This caused quite a discussion. The answer was in order to maintain parity of prices on the same grade of hat, the local association keeps supervision over prices; are not apt to interfere unless unfairness apparent; strictly speaking there is none, that is a minimum price, excepting in weekly payments, otherwise earning power is basis of making the bill of prices. **3963**

The next was what security or standard of minimum price, is it subject to the will of the local executive committee, or by whom is it regulated, and how long will the standard be maintained? Their reply was, "In your case prices will be regulated by conditions, in your factory, and comparing with competitors, with Ferry at Newburg." **3964**

The next was, "What difficulties are arbitrated?" The answer was, "All questions of difficulties arising except to laws, may be arbitrated."

3965 The next, what prices are arbitrated, and can any decision of the arbitrators be binding? They stated that piece prices only could be arbitrated. I asked them, "Are all decisions as to prices by piece binding on both parties, no matter what conclusion is reached?" Their answer was, decision of arbitrators is binding upon both sides for the term agreed upon.

The next question was how many are chosen for arbitrators? Their answer, as a rule not less than three, two have been accepted.

Then the next, how many for final arbitrators, their answer one.

3966 The next question was, Can I tell my fair man whom I prefer to shop, or am I deprived of expressing my wish and having the same observed? The answer was, you have a right to say who you wish to shop unless you dictate to the foreman and so deprive men from getting shop that are entitled to shop. This refers to a clause in their laws.

Q. Can you find that clause? A. Yes, it is in the book there.

Q. Just read the clause? A. Mr. Lawlor said, "Why that is not in there, we have no such law." I showed it to him. "Well," he says, "it should not be there." This is article 3 of 3967 section 3 of the by-laws, it says, "Any fair man who shall shop any person upon the recommendation of an employer or superintendent, or any manner other than that laid down by our laws, shall, upon conviction by the board of directors, be fined $25 for each offense."

Q. Your question was put to him because you read this particular clause in the by-laws? A. Yes, sir. Next I asked him what constituted a fair shop, what employees must belong to the Union, and what Union, and who are excepted? This covers the jurisdiction of the United Hatters, and they represented the same as I said, in Article 2, Section 2, coners and 3968 slippers. It had not been known that coners and slippers were members of the United Hatters, but Mr. Moffitt had explained at the March 6th conference that when the Orange Valley factory had been unionized, they had trouble soon after, they had started to work, and they had trouble soon after on account of the coners and slippers going on a strike, and by that had stopped the work in their factory. These coners and slippers not belonging to the United Hatters, Mr. Moffitt explained they could not control them. And when they found they could not make any terms with the coners and slippers by the assoication,

they told the manufacturers to discharge them, and they would supply them with new men, and they made them members of the United Hatters. 3969

The next question if any differences arise concerning the right to use Union labor, how are such differences settled? The reply was by the national officers and the firm. They also stated that the ownership of the owner label and which Mr. Moffitt has referred to in the March 6th conferences, belonged to the national officers. The ownership was not placed in anybody else but the national officers.

Q. Was it stated whether or not the right to the use of the union label in questions of discrimination between the employers and the union was a subject of arbitration? A. It comes later on, that question comes up later. If the union label should, for any cause, be removed from our factory, under what conditions would it be restored? Is the use or restoration of the union label left in any way to arbitration, or is it wholly in the hands of the national officers? To all this they replied yes, it is naturally in the hands of the national officers, and nobody else has any jurisdiction over the matter. 3970

The next, state exactly what we would have to do to keep the use of the union label without interruption? This was asked for the reason that there were so many cases where the label was being taken out of the factory for some reason or other, and caused trouble, and at that time a large factory in Danbury was in trouble. Their answer was, by keeping the conditions in the factory so the men could make union wages, and an average of $3.00 per day. 3971

The next question was, can we run a union or fair shop without using the union label? And the answer was, we expect the use of the union label in all union factories; will make exception in some cases if label is used in a general way.

Mr. Lawlor stated that was the principal reason for doing this, to have the union labels and they referred at that time to Dunlap. Dunlap agreed to the condition of unionism in the factory, but would not use the union label, that his dye or his marks that he put in the hat would be the only one under which he would sell his hats, and they had granted him that privilege. Mr. Phillips, I believe, was working at that time in the Dunlap factory, and I think that the Dunlap factory was the only one where that condition had ever prevailed, that is, strictly union, but no union labels being used. Mr. Lawlor 3972

3973 pointed to the fact that it caused them a great deal of trouble, a good many people would write them, and had written them how they could claim Dunlap factory in the union if the hat did not have the union label. Those were all the questions that I asked them, and with that I told them that I was through, that was all I wanted to know.

Then Mr. Lawlor stated, "Why," he says, "you have forgotten the most important part of it." I said, "What is that?" "Why you have not mentioned anything about your employees." I asked him what he meant about them, well, he said, "about your employees getting union cards." I said, "There
3974 is not question about that; if I want to unionize the factory, if any one wants to work for me, he will get a union card." "Why, no," he says, he says "it is very important to have that. Some negotiations have slipped on that very fact, we cannot grant it to everybody that you have in your factory." I said, "Why there is no use talking about the matter then." "Well, what are the conditions?" He says, "that all men in arrears pay up their dues and assessments; those that have never been members will become members at the option of the local association. The usual initiation fee is paid of $25 or is charged rather of $25 each." I withdrew then.

3975 Q. I did not understand this last where you spoke about negotiations having slipped up on this point. A. That is what Mr. Lawlor stated.

Q. What negotiations had slipped up? A. Why, I supposed he referred to negotiations—

Mr. Mulholland:

I object.

Q. They object to the form of your answer, just explain and tell the court fully and clearly as you can, just what Mr. Lawlor stated regarding negotiations.

Q. He said that some negotiations had fallen through
3976 with other manufacturers concerning the unionizing of their plant? A. Yes, he said "You remember that some of the negotiations have slipped up from the very fact that the manufacturers insisted upon having all of the employees unionized," and that they would not accept it.

Q. That he would not accept of the employees? A. No.

Q. Now after you left these gentlemen on the 20th of March did you subsequently write a reply to them as to what

your position was on this question? A. I told them when I left them that I would write them. 3977

Q. And you did write them? A. I wrote them.

Q. When did you write this letter? A. I prepared the letter soon thereafter and intended to mail it on Saturday the 19th or 20th of April, but the day before my daughter was taken sick suddenly, and as I wanted to read my letter to my employees first before I sent it, I deferred it until the following Monday, which was, I think about the 21st or 22nd day of April, somewhere around there, 22nd.

Q. To whom did you read it in your factory? A. I went to the making department first, called them together and explained that I had been called upon by the union officers, or national officers, and that they had asked me to unionize the factory. 3978

Mr. Mulholland:

It is objected to, a conversation between Mr. Loewe and others who are not parties to this suit, unless it can be in some way connected up. I don't see how the defendant in this case can be bound by it.

The Court:

I don't know whether any of these people were defendants or not. 3979

Mr. Merritt:

Yes, one or two of them were, your Honor. Of course, the main purpose of the offer is to show that all of these employees were satisfied with conditions when Mr. Loewe went to them and read this letter to them.

The Court:

I think that is admissible.

Exception by defendant.

Q. You read it to them. A. I explained why I had prepared this letter and that I wanted to read it to them, and if they had any objection, or thought I was not taking the proper stand, they could let me know; but I did not like to send this letter out without letting my employees knowing it and whether it would meet their approval. I then read the letter to them, and no comment was made, and after a while, after reading the letter I left them. 3980

Q. What one of the defendants were present in the department? A. Carl Redmond.

3981 Mr. Merritt:

I will offer this letter and ask to have it marked as Plaintiff's Exhibit 111.

Mr. Mulholland:

We object to this, your Honor. I think a perusal of the letter will show conclusively that it is a self serving declaration, and a continuation of the discussion in the absence of any of the defendants.

Q. Where was this letter addressed? A. Where was it addressed?

Q. Yes. A. In my office.

3982 Q. To whom was it mailed? A. To James B. Maher.

Q. Where did you get that address from? A. I got it from him, 46 Townhill Ave., I think, Danbury, Conn.

Mr. Merritt:

Your Honor, Mr. Moffitt requested Mr. Loewe to write this letter and to communicate with Mr. Maher his answer to the demands of their board, and that is in the record so far.

The Court:

You may read the letter.

Exception by the defendant.

Plaintiff's Exhibit 111, Letter of D. E. Loewe to James
3983 B. Maher about April 22nd, 1901.

PLAINTIFFS EXHIBIT 111.

Since our conference of March 20th, we have carefully considered these rules and interpretations of your laws and the probable effect they would have on our business should we decide to comply with your request and Unionize our factory.

It was stated by Mr. Moffit at the conference with the National officers held March 6th that you would not want all of our employees to become members of your Union, that the
3984 places of such men as you would not want would have to be filled by members of your Union now out of employment.

You and Mr. Lawler made a similar statement to me on March 20th and from the fact that you would allow us only six apprentices for the Finishing department it is but natural to assume that only six out of the thirteen or more boys we now employ in said department would be registered; from which we may infer that the other seven or more boys as well as those men who may not be wished as members of your Union must be discharged. The places of these seven or more

boys would have to be filled by men at a wage of $3.00 per day, which means an increased expenditure and to this added the increased piece prices that we would have to pay to bring average earning power of men to $3.00 per day would mean an increase in the cost of production to a considerable extent. The fact that the consent of the Local Executive Board is necessary for the shops crew to make prices and your admission that you will now allow finishing and sizing below the present lowest price proves the existence of a minimum price and in face of this how can you say that the decision of arbitrators is binding upon both parties when it is plain that a decision below the minimum price would not be binding upon the men? It is plain that we as the employers would have but little to say as to the making of Bills of Prices and in the shopping of men. **3985** **3986**

We find therefore, the Unionizing of our factory would mean:

1—The abandoning of Men and Boys who are entitled to employment.

2—A largely increased cost of production.

3—Our surrender of the right to manage our own business.

We do not know who these men and boys are that we would have to discharge; we feel, however, that they are entitled to employment and from the fact that they are in our employ now is evidence that they are competent and that their services are required and we feel it is our duty to continue them in our employ. We do not discriminate as to Union and non Union men, our shop being free and open to both. We give boys of our town a chance to make a living and at the same time the privilege of learning a trade, give employment to a large number of men who are members of your Union but who cannot find employment in shops under your jurisdiction and we do not want to be obliged to discharge anyone. We have contracts with some of our men which are sacred with us and which we will not break. The increased cost of production would mean the loss of the larger portion of our business. **3987** **3988**

Our experience of 1885 to 1894 is still in our minds and the knowledge then obtained convinces us that the increased cost would drive the production of our most popular grades of hats from Danbury just as the increased cost of production occasioned by the Unionizing of all the factories in Danbury in 1885 drove the soft hatting from this town to other districts; with the difference, however, that the one-sided laws of

3989 your Union of today would accomplish their work in much quicker time than then. Under your laws now the local Executive Board can establish a standard of wages which arbitration cannot interfere with, and the use of the Union label is controlled by the National Officers and is not subject to arbitration. From 1885 to 1894 all difficulties were settled by arbitration.

It has taken us years to build up this business; gradually we have increased our capacity and as we needed them have added to the number of our employees, who may not have an average earning power of $3.00 per day, but for the reason
3990 that we are running quite steadily the year around they have a yearly income which will stand comparison with the $3.00 a day standard. We frankly admit that on our principal grades it is impossible to make an earning power of $3.00 per day and it stands to reason that low grades of hats which require but little skill should not produce an earning power of equal amount with that of fine grades which require a great deal of skill and to which a great deal of time has to be given to master it. We consider the principal of $3.00 per day as erroneous; it is not the work for a short period of time that gives to the employed the best result, but the steady employment at a mod-
3991 erate wage. If a $3.00 per day wage became a standard the tendency would be to deprive of work those who from ill health or other cause are not equal to the demands made upon them. Manufacturers would want only the most active, enduring and capable for the $3.00 standard. In bringing the manufacture of low and medium grades of soft hats to Danbury we believe we have acted for the best interest of the town. It seems needless to mention that a loss to our firm of the most popular grades of hats will as seriously affect our employees as it will us. It will deprive them of work, which means loss of wages; loss in wages to our employees means just so much
3992 loss of business to Danbury. It is a well k nown fact that Danbury needs more business and can ill afford to lose what it now has. You have given us no just reason why we should change and allow you to Unionize our factory. You have stated that you had decided that we should be made fair; that you hoped we could see that it would be to our advantage and come in peacefully.

We stated to you that we are convinced that our employees are satisfied with their employment because we are

giving them as good an earning power as we consistently can and at the same time find a market for our goods. 3993

Why then disturb us and attempt to deprive us of a large proportion of our business that enables us to give employment to many citizens of this town?

Why deprive them of their wages and deprive Danbury of so much income? By disturbing us you will drive more business away from Danbury than the Board of Trade can bring here for many years.

Firmly believing that we are acting for the best interests of our firm; for the best interest of those whom we employ and for the best interest of Danbury by operating an independent or open factory, we hereby notify you that we decline to have our shop Unionized and if attacked shall use all lawful means to protect our business interests. 3994

Q. Did you read that letter, Mr. Loewe, later to any other body of employees beside the makers before you sent it? A. I did.

Q. To whom? A. I read it to the finishers too, after leaving the making department.

Q. On the same day? A. On the same day.

Q. Did you make the same statement to them that you did to the makers? A. I did. 3995

Q. Did anyone reply? A. Yes, some of them replied.

Mr. Mulholland:

Objection renewed to the conversation in the making department and in the finishing department.

The Court:

The same ruling, it is admitted.

Exception taken by the defendant.

Q. Who replied? A. Mr. Floyske.

Q. He is a defendant in this case? A. He is.

Q. What did Mr. Floyske say? A. Mr. Floyske's reply was, "I understand, Mr. Loewe, I have been working in union factories and I like it better here, the conditions are much better, and I like it better, and I don't see any reason why you should unionize." 3996

Q. Did anyone else reply? A. Yes, there were others spoke similarly, but I can't recall their names.

Q. Did you read this letter to any other department in your factory? A. Yes.

Q. Where? A. The flangers.

3997 Q. On the same day? A. Yes.

Q. Did you make the same statement? A. I did.

Q. And did anyone reply? A. I don't remember. I also read it to the trimmers, to the trimming room.

Q. You went up to the trimming room and read it to the trimmers? A. Yes.

Q. Did you get any reply there? A. I don't think I got any reply there.

Q. Did you ever get any reply to this letter from any of the national officers? A. I did not.

3998 Q. No reply from anyone to this letter? A. No, sir.

Q. When did you next hear from any of these national officers concerning this matter? A. About the 24th day of July, 1902, about 14 months after I sent the letter.

Q. That is the day before the factory closed? A. Yes.

Q. What took place on the 24th day of July? A. Mr. Reed our salesman, was up getting out a list of samples, and we went to the Groveland together to have lunch, and on our return to the factory about 2 o'clock

3999 we received a telephone call. I went to the telephone and said "Hello." From the other end it came, "This is Mr. Maher, the officers of the United Hatters are here at the Groveland and want to see you at 3 o'clock on some important business."

I said, "Mr. Maher, I have a gentleman here from New York and I am busy with him, he wished to finish up this afternoon, and I don't see how I can spare the time to go to the Groveland. Anyway I don't see that I have any business with the national officers," and with that the receiver was slammed down. I just could hear,

4000 "All right."

Q. That was all of the telephone conversation? A. And the conversation was shut off, yes.

Q. That was in the afternoon? A. That was at 2 o'clock in the afternoon.

Q. Did you hear anything from any of your employees concerning the strike on that day? A. It was between 5 and half past 5 when Mr. Ackerman, the foreman of the making department, came in to see me, and

stated that the men had received a notice to attend a meeting at 8 o'clock the next morning. 4001

Q. Is that all? A. I asked him what that meant, and he says, "I don't know, but I suppose they are going to be called out."

Q. Is that all that happened on that day? A. Then later on—yes, that is about all.

Q. Well, the following day, what was the first event that came to your attention in connection with this matter? A. Just before I left the house the following morning Mr. Phillips Goos called me up on the telephone and said he had been notified— 4002

Mr. Mulholland:

Just a moment. Was he a defendant?

Mr. Merritt:

No, Mr. Goos is not a defendant.

Mr. Mulholland:

Then I object to that.

Q. Well, then you went down to the factory? A. I went down to the factory, and as I came to the factory, I saw a group of some of these makers leaving the make shop, and at the entrance to the factory I met some of the finishers. 4003

Q. That was, as you went into the factory you saw these men leaving? A. Yes.

Q. What time of day was this? A. About 8 o'clock in the morning.

Q. When did your factory open in the morning, or did it, at that time? A. Seven.

Q. Did you have any conversation with any of these men as they were leaving, as to why they were leaving, yes or no to that, Mr. Loewe? A. Some of them stated—

Q. Just a moment, you had some conversation with some of these men as they were leaving the factory, is that correct, just yes or no, Mr. Loewe? A. Why, I don't know that I asked any of them, whether we could call it a conversation or not. But one or two of them told me, "We are going to a meeting" volunteered that statement. 4004

Q. Did they make that statement as they were leaving the factory? A. Yes.

Q. Were the finishers and makers leaving at the same time, Mr. Loewe? A. About the same time.

1005 Q. Is that all they told you? A. They did not all leave at the same time, some of the finishers did not leave for some little time, some of them came to me first and wanted to know what they better do.

Q. You know whether or not Mr. Goos left at that time and went to the meeting? A. Yes; not at 8 o'clock, but he left at half past 8, some where around there.

Q. Did these men return during that day? A. Whether they all returned I couldn't say, but most of them returned, yes.

Q. Did Mr. Goos return? A. Oh, yes.

1006 Q. About how many left on that day as near as you can recall? A. Oh, I suppose in the neighborhood of 40. Mr. Davenport:

Left to go to the meeting? A. Left after the meeting.

Q. How many left in the morning? A. Of the 25th, about 40 I should say, somewhere around there.

Q. Partly makers and partly finishers? A. Oh, more than that. I meant finishers. Most all the makers. All the makers but one.

1007 Q. Now when these men came back, Mr. Goos and the others, did any of them give you any reasons why they had left? A. Yes.

Q. I will withdraw that question. I will ask you whether or not, when these men came back, if they went to work and continued at work? A. Some of them went to work to finish up their work.

Q. Did they remain through the day? A. No.

Q. None of them remained through the day? A. None of them remained through the day but Mr. Goos did not go out.

1008 Q. When did Mr. Goos go out? A. He did not go until Monday and this was on Friday.

Q. Did you have any conversation with any of these men as to why they left? A. Yes, that is, after they finished up their work and left the factory?

Q. Yes? A. Or going to the meeting?

Q. Did you have any conversation at this time on this day with any of these men explaining why they were leaving? A. Yes.

Q. With whom? A. There was John Procoby.

Q. When did you have this conversation with Mr. Procoby? A. As he was leaving the finishing room, he had not left the finishing room, he was packing up his things, had cleaned up his bench, and I asked him— 4009

Mr. Mulholland:

The conversation with this man I object to. He is not a defendant.

Q. I will ask what the conversation was with this man.

The Witness:

I want to correct it, it is not that day not with Procoby, it was the next day. 4010

Q. It was the next day? A. Yes, he was a non union man.

Q. Did you have a conversation with any one on this day when the union men left? A. Yes.

Q. As you understand it, it was the union men who left on the 25th? A. On Friday, yes.

Q. And the non union men did not leave on the 25th? A. No, they left the following day.

Q. Did you have any conversation with any union man who left on the 25th as to why he left? A. Yes.

Q. With whom? A. Michael Zeigler. 4011

Q. How about Mr. Floyske? A. Another one.

Q. He is a defendant in this case? A. Yes.

Q. Can you tell me what the conversation was with Mr. Floyske? A. The principal conversation with Mr. Floyske took place the next day when he came for his money.

Q. On the following day? A. The following day.

Q. Well, I will ask for the conversation with Mr. Floyske, on the following day?

Objected to.

Q. He was one of the men that left on the 25th? A. Yes, sir. 4012

Mr. Mulholland:

He is not a defendant I think.

Mr. Merritt:

He is a defendant as I understand it, isn't he?

Mr. Davenport:

Does it make any difference whether he is or is not?

1013 Mr. Beach:

This is on the following day, what do you claim it for?

Mr. Davenport:

For a great many reasons is it admissible?

Mr. Beach:

What do you claim it for?

Mr. Merritt:

I claim it for many reasons.

The Court:

1014 There is no need of taking any time in discussing it. If he is one of the defendants, one that you allege is a party to this suit, and there is evidence tending to show that he is, whether he said it that day or the next week, it is admissible.

Exception taken by the defendant.

The Witness:

A group of these finishers were waiting for their envelopes to be given to them, by Mr. Lueders. I stepped up to them and said, "Now, men, you are leaving; what is the reason, what have I done to you, haven't I treated you well; are there any grievances that you have 1015 against me, or against anything in the factory that has not been adjusted?" And Mr. Floyske stepped around and said, "No, Mr. Loewe, everything is all right, it is not our doing." And Mr. Zeigler said—

Mr. Beach:

Hold on, is he one of the defendants?

Mr. Merritt:

Mr. Zeigler is not a defendant.

Q. I ask for the conversation with Mr. Zeigler.

Mr. Beach:

I object.

1016 The Court:

At this stage of the case in the exercise of my discretion, I will not admit that.

Exception taken by the plaintiff.

Q. Was Mr. Zeigler a member of the union do you know? A. Yes.

Q. Did you have any conversation with anyone else, at this same time concerning which you are testifying, when the men were being paid off? A. I don't remember now. I was speaking to probably 15 or 20 of

them at the time when this conversation took place or per- 4017
haps more.

Q. Was your conversation with Mr. Floyske in the presence of the others? A. Yes, sir.

Q. Were they all together in one room? A. All in a group there waiting for their envelope. Some of them were receiving and others were waiting to get them, and then again when they left the factory I was downstairs, and I asked them, says I, "Now you people have been with me so long and we have lived peacefully together, I hope you won't do anything you will be ashamed of hereafter."

Q. All of these men that you are testifying about now 4018
were union men? A. Yes, sir.

Q. They were the men who left on the 25th? A. Yes, sir.

Q. And your conversation with any of them was in the presence of a large number of them? A. These, yes.

The Court:

In the presence of any of the defendants in this case? A. I don't remember now, it might be.

Q. Wasn't your conversation with Mr. Zeigler in the presence of Mr. Floyske? A. Oh, yes.

Mr. Merritt:

Well, I will offer it again. 4019

The Court:

Well, if Mr. Floyske was there and heard it.

Q. How near was Mr. Floyske? A. From me?

Q. When you were having this conversation with Mr. Zeigler? A. About this distance (illustrating).

Q. Was the conversation in a tone of voice where a man of ordinary hearing would hear it? A. Yes, indeed.

The Court:

Well, he may state it.

Q. All right, give you conversation with Mr. Zeig- 4020
ler? A. Mr. Zeigler said, "Why, you know you are all right, that is not it, you know what it is, we have to go."

The Court:

That was said in the presence and hearing of one of the defendants? A. To my best recollection, yes, sir.

Q. Did you have any conversation that you recall now with Mr. Lorin Barber? A. About the same time, yes, sir, or at the same time.

4021 Q. In the presence of the same group of men? A. Yes, sir.

Q. At the same time? A. Yes, sir.

Q. And at the same place? A. Yes, sir.

Q. And he was an employe? A. He was.

Q. And a union man? A. Yes, sir.

Q. What was the conversation with Mr. Barber? A. Why, as I recollect —

Mr. Mulholland:

I object.

The Witness:

4022 Mr. Barber said—

The Court:

It is admitted.

Exception taken by the defendant.

The Court:

I understand this is at the same time?

Mr. Merritt:

And in the presence of Mr. Floyske.

Q. And in the presence of Mr. Floyske according to the best of your recollection? A. Yes, sir.

Mr. Mulholland:

4023 I take it, in order to make a conversation competent because a party is present and heard it, and had an opportunity to deny it, there must be definite and positive testimony that the party did hear it. The most this witness testified to, was "to the best of my recollection he was there." I consider that is not sufficiently definite to bring it within the acceptance of the general rule that such conversation is inadmissible, and our objection is based upon that theory. The court is entitled to know that.

The Court:

4024 Well, talks of that sort under ordinary circumstances people are not inclined to make remarks about it, and it would be admissible as showing the state of mind that they were in, even though a defendant might not be present. The court was not quite satisfied about that when it was passed upon before. The witness says to the best of his recollection one of the defendants was there and heard it. He knew that this man belonged to the union and was a member of the union. I think I will receive it.

Exception taken by the defendant.

Q. I was asking for the conversation of Mr. Barber? A. I can't remember now what it really was, I know that we talked about the matter, he was one of the people that was pulled out twice before I think— 4025

Objected to.

The Court:

Strike out that answer. I don't think the witness intended anything wrong, but it was a little more than a response to the question.

Q. Now on the 25th when these union men left, did you have any conversation with them as to why they left? A. On the 25th? 4026

Q. Yes? A. Yes, I had conversation with several but I can't remember now exactly.

Q. Did you have a conversation with James Gildea? A. Not on that day, I didn't see him at all on that day, he came to my house.

Q. When was that? A. Either that night or the following night.

Q. Did you have any conversation with Mr. Philip Goos? A. Yes indeed, all day long on Friday.

(Five minute recess.)

Mr. Merritt: 4027

Your Honor at this point I would like to read the testimony of one of them that covers about a page, and is direct evidence to the meeting that these men attended, and it may throw a little light on the situation in the mind of Mr. Loewe. It is just one thing, and I ask the privilege of suspending the examination of this witness.

The Court:

Who is the witness?

Mr. Merritt:

Joseph Haigh.

The Court: 4028

On the former trial?

Mr. Merritt:

It is admitted that he is dead.

The Court:

Very well.

(Mr. Merritt read the testimony of Joseph Haigh as it appears on page 27, 29, of the old record, and the testimony is as follows:)

4029

JOSEPH HAIGH,

sworn by the clerk.

The Clerk:

What is your full name? A. Joseph Haigh.

Examined by Mr. Merritt:

Q. Speak up Mr. Haigh, so we can all hear you. You were an employe of Mr. Loewe's at the time the men left July 25th, 1902? A. Yes, sir.

Mr. Davenport:

Well he hasn't answered it; he noddel his head.

4030

Witness:

I said yes, sir.

Mr. Merritt:

Speak up so we can all hear you.

A. Yes, sir.

Q. You went down with the men to that meeting in White Street in which the union men all met? A. I did.

Q. I will ask you whether or not at that meeting you heard some one request or ask in the presence of Mr. Barrett and Mr. Maher as to what should be done with the men who wouldn't go out? A. I did.

4031

Q. And did you hear any reply? A. Yes, sir.

Q. And who was that reply from? A. Well, it was from Mr. Barrett, and Mr. Maher sanctioned it by nodding his head this way (indicating). Mr. Maher sanctioned it when Mr. Barrett spoke up. Says he—

Q. You may give me the reply? A. Shall I give the reply?

Q. Give the reply? A. He says, "If any one stays in there or disobeys orders, that there will be a fine of possibly five hundred dollars, maybe a thousand, or his check taken away entirely."

4032

Q. That is all? A. I can't help but tell the truth. Whether it huts anybody or not, I am sorry.

Mr. Beach:

You say that is all?

Mr. Merritt:

Yes.

Mr. Beach:

That is all.

The Court:

That is all, Mr. Haigh."

Q. Now, Mr. Loewe when did you have a conversation with Mr. James Gildea? A. Either the Friday or Saturday night of that week. 4033

Q. And he was one of the union employees? A. He was.

Q. And did this conversation relate to whether or not he would leave your employ? A. That is what he came up to see me for or about.

Q. Did he leave your employ? A. He did.

Q. And this conversation was either on the night he left or the following night? A. Yes, sir,

Q. What was that conversation? 4034

Mr. Mulholland:

Was he a defendant? It is objected to.

The Court:

He may answer.

Exception by the defendant.

The Witness:

He stated that he attended the meeting, and that the meeting had been addressed by James P. Maher, who told them—

Mr. Beach:

Does your Honor hold their statements are admissible? 4035

The Court:

Do you claim that to be admissible?

Mr. Davenport:

It is the reason given by the witness for the act of the going out and quitting. Now it has been shown to your Honor by Mr. Haigh the threat that was made, if any of them stayed, that he would be fined $500 or $1000 or possibly his card taken away. Mr. Haigh just testified to that in the interim. Now, Mr. Loewe is visited by one of these men and he gives the reason for his leaving, and it is precisely that. Now it seems to me it indicates the state of mind of the man. 4036

The Court:

Well, the question in my mind about that is, that he is going on to relate what this man said that he heard somebody else say.

Mr. Davenport:

We do not offer it as proof that he made it, but as proof of the reason that these men gave. We have already

4037 proved that he made it, by Mr. Haigh, Mr. Haigh has testified already.

Mr. Merritt:

I want to state first of all as to what this witness states that Mr. Maher stated, does not coincide or cover the same ground that Mr. Haigh stated. He elaborates on Mr. Haigh's speech but it is going to a new field.

Mr. Beach:

Now your Honor, we ought to say that we expect to prove, and we did it at the last trial, and we expect at this trial to produce testimony utterly denying the al-

4038 legation of any sort of threat or intimidation whatsoever on the part of Mr. Maher at this time or at this meeting. I think the real object of this testimony is to prove that intimidation by hearsay evidence instead of calling the witnesses here, and having them subject to our cross examination.

Mr. Davenport:

Your Honor, if the contention of the gentleman is that he is going to show that these men themselves got together without compulsion and struck this blow at this man's business, they are conspirators themselves, and the

4039 declarations of every one of them is admissible. It does not make any difference in regard to whether or not these men had joined in this conspiracy by persuasion or by compulsion.

The Court:

Is that a part of your defense, Mr. Beach? That they went voluntarily?

Mr. Beach:

That they went voluntary.

Mr. Mulholland:

That they held a meeting and voted that that action

4040 should be taken, if the Court please, and that the action on the part of these men was taken with out any threats and intimidation.

The Court:

In view of that statement that that is a part of your defense in this case, why then the jury might find that this man was one of the co-conspirators, and his sayings would be admissible as against any and all of the conspirators. Of course the jury will be told that the evidence of the sayings of any one of these alleged conspirators,

if they find that they were not conspirators they should not take it into consideration. If they find they were, then it is evidence against them all, and they certainly would be justified in finding they were co-conspirators if the defense is what you say it is, or the facts are as you say they are. 4041

Mr. Mulholland:

Well, we will have to except to the ruling of the court on that proposition.

Exception taken by the defendant.

Mr. Beach:

I would like to ask one question. Whether the gentleman really means in good faith to offer any testimony about James Gildea being a conspirator here? 4042

Mr. Merritt:

I understand you are the one who is going to offer evidence that he is a conspirator.

The Court:

Mr. Gildea a union man, or a non union man?

Mr. Merritt:

He is a union man. I have not asked for the conversation of any one who was not a union man. They were all members of this organization. 4043

The Court:

You may proceed.

Exception taken by the defendant.

Q. Give me the conversation which you had with Mr. Gildea at that time? A. Mr. Gildea stated "Well, I think they have got you all right. I attended the meeting and Mr. Maher stated that they were now through with the Roeloff factory, and now they were ready to take up our case, where they had left off the year previous, and we will make quick work of it, we will do it in a few days, all we want now is for you to do what we want, that is, stop now, and we will have them in a few days. Then somebody had interposed that I had always treated them well, and it seemed rather rough on me to leave without finishing up the work. They finally agreed that those who had work in hand, that they should go back and finish up, but should not stay any longer than 2 o'clock in the afternoon. 4044

He also stated then, that, "Mr. Loewe is not at all a big concern we can make very easy work, we got Berg

4045 and we got Roeloff, and both of them put up a persistent fight, but we finally got them, and now if you do not go out, of course then we will have to treat you the same as we did those in Berg's factory and in Roeloff's factory." I don't remember about Berg, but Roeloff's factory, I do. "That when we had Roeloff where we wanted him, he presented us a list of employees who had stood by him, and he said, now I want these men unionized with the rest of them, and he took up a piece of paper, and we took that list and took a lead pencil and crossed blue lines through those names, and we will treat you the same way
4046 unless you do what we want you to do. We have got them, because our agents are ready and we will send them on the road and they will ruin his business. If he should furnish his factory with non union men to the roof, it won't do him any good, our agents are ready and we will ruin him."

Then he said, "Now you stop work and we will get him next wek" because they could make very quick work of it.

Mr. Beach:

4047 I would like to know whether this Gildea was a maker or a finisher? A. A maker.

Mr. Beach:

Then he was talking about the meeting of the makers, was he? A. Yes, they attended jointly, the makers and the finishers.

Q. Now, Mr. Loewe, will you state whether or not the men did leave after two o'clock? A. They did.

Q. And that part of them did return? A. They did.

Q. You said that not all the union men returned on
4048 the 25th; do you know when a part of the union men returned from the meeting? A. Well, those who had work on hand, and who had asked the privilege of finishing up their work, as we'll call it, had a weigh out.

Q. They stayed until about 2 o'clock? A. Yes, sir.

Q. Now on the following day what happened at the factory? A. I might say that the 25th of July was on Friday wasn't it? A. Yes, sir.

Q. Now we are talking about July 26th which was Saturday? A. Yes, sir.

Q. Now what happened on Saturday the 26th? A. I was told that the non union men were to be called to a meeting, so I went upstairs, as we had quite a number in the finishing room, and I spoke to them, and I called them together— 4049

Q. That is you spoke to the non union finishers? A. Yes, that I expected that they would be asked to join the union men, and I would ask them to consider and go slowly, that if they wanted to join the union, and if they were where—

Mr. Mulholland:

I think I want to interpose an objection to the conversation between Mr. Loewe and men who were not members of this organization. This allegation of conspiracy is based entirely upon the connection of the individuals with this labor organization. Now the day after these union men had left the factory, they proposed to introduce an address or conversation delivered by Mr. Loewe to the men still remaining in the factory which I think would have no binding force whatsoever. 4050

Mr. Merritt:

Let me clear it up a little.

Q. Did the non union men leave on Saturday the 26th? A. They did. 4051

Q. And this conversation which you had was before they left? A. Yes, sir.

Q. And it was the remarks that you made for the purpose of inducing them to remain? A. Yes.

Mr. Merritt:

I have not offered anything as yet to prove what they said to him, I am just offering what he said to his own employes that morning, that is all the question that is before the court.

The Court:

That is admissible as to his efforts to shield himself from suffering too great damages. 4052

Exception taken by the defendant.

Mr. Beach:

The fact is admissible, but not what he said to them beyond the fact of the inducement, to try to induce them to remain.

4053 The Court:

That is, you do not object to his stating that he made an effort to have them remain?

Mr. Beach:

That is it.

The Court:

But you do object to his telling what he said?

Mr. Beach:

Yes, sir.

Mr. Mulholland:

To his delivering an address.

4054 The Court:

I think on that point your objection is not well taken, because there will be presented to the jury a question as to whether these damages that this plaintiff claims necessarily arose from these acts, and whether he himself did what a reasonable man ought to do to keep the damages down. And as bearing on that, the jury have a right to know just what he did and what he said upon that occasion.

Q. Now you went upstairs, you stated on the morning of July 26th? A. Yes, sir.

4055 Q. And you talked to these men with a view to inducing them to remain? A. I did.

Q. Now state what you said for that purpose at that time? A. I told them that I had been through this matter of unionizing the factory, I had been in conference with these people, and had it before me for about a year and a half, or some time, and I knew where I stood, that I could not possibly asquiesce in their demands, and it would be necessary for me to run the factory as a non union factory on independent lines in order to keep the business alive. But I expected that the officers would ask

4056 them to come out and help the union men to cripple our factory. I wanted to say to them that if they remained with me that I would protect them; that if this factory ever should become union I would see to it that they would get union cards if they remained with me, it would not cost them any more than it did now, and that I would in every way protect them, but that I could not make my promises any stronger, as I was not in the habit of making them any stronger, and I pointed to four men who were working at the bench who had not participated in

any of these matters, that those four men were evidence whether I would keep my word or not, they should ask them, that nine or ten years previous to that I tried to make a contract with these men, but those contracts were still in my desk unsigned, that it was simply a verbal understanding between us, that I held it, and I would do the same thing with them, and they could rely upon it. 4057

Q. About what time was it, Mr. Loewe, when you talked with these men? A. Oh, it was before 11 o'clock I think it was in the forenoon.

Q. When did they leave? A. I think they left somewhere at noon, or soon after? A good many of them left after they had drawn their pay. 4058

Q. Did you have any conversation with any of these employees when they were leaving? A. Yes.

Q. With what one? A. John Procoby.

Q. Where was it you had this conversation? A. He was just ready to leave the factory, that is, leaving his bench, and I stepped up to him and asked him, "John, are you going too?"

Q. What did he reply?

Objected to.

The Court:

Who is he? 4059

Mr. Merritt:

He is a non union employee.

Q. He finally left, did he, Mr. Loewe? A. Yes.

Q. Did he ever come back? A. No, sir.

Q. Did he leave then? A. He did.

Q. Did his remarks relate to his reasons for leaving? A. Why, in a general way, yes.

Q. Well, were those remarks relating to the reasons why he was leaving the factory at that time? A. Yes.

Mr. Merritt: 4060

I offer it not as proof of any other facts than what it was that was influencing these employees to leave, whether or not it was dissatisfaction with the factory and whether or not it was union conditions in Danbury, or whether or not it was some subterranean orders he had received.

The Court:

Well, I don't know what the reply was, so I cannot pass upon it intelligently.

4061 Mr. Merritt:

It is on page 1589 of the record.

(Record is shown to the court.)

The Court:

Well, you want to read that as showing his mental condition, whether he believed it or not. It is admitted.

Mr. Merritt:

I presume the answer will substantially conform to that.

Exception taken by the defense.

The Witness:

4062 "Well, what can I do? I must make a living."

Q. On the afternoon of Saturday July 26th, how many men were there left in your factory in the making and finishing departments? A. Why, I think 7 or 8 in the finishing department.

Q. Seven or eight? A. Yes, something like that, and one in the making department. I think there were more in the flanging and packing room.

Q. Can you tell me approximately how many men left in those two days, Friday the 25th and Saturday the 26th of July 1902? A. Oh, I should say about 120.

4063 Q. About 120? A. Yes.

Q. About how many trimmers did you have? A. I think 40 or 46, something like that.

Q. Well, on Monday the 28th of July, what was the condition at the factory? A. We had one in the make shop, we had none in the forming department except the foreman, and the blockers and stretchers had left, all the pouncers had left, all the finishers but I think 7 or 8, all of the flangers and I think all the packers.

Q. About how many in all had left?

The Witness:

4064 About 132 left, and that threw of course a number of others out of employment who could not work.

Q. Because the work was interrupted? A. That is it.

Q. Did you have any further talk with the national officers after the strike took place? A. I think it was on Wednesday following. I had a telephone call from Mr. Maher in the forenoon, I think it was near noon, somewhere around there, he asked me to come to the Groveland and see him. I told him that I did not care to go

to the Groveland, but that I would be willing to meet 4065
him at some other place, and we finally agreed upon the director's room of the Danbury National Bank.

Q. And you went to meet him at this room? A. Yes, I did.

Q. Did you meet him there? A. Yes, I did.

Q. Was there anybody else present besides yourself and Mr. Maher? A. No, were there all alone.

Q. Now, tell me what took place at this meeting? A. After we entered the room, I said to Mr. Maher, "What did you do this for? Why do you cause me this trouble? Why do you interrupt our business and take all 4066
these people away from me who have been working with me, most of them for a great many years?" To which he replied that he was representing about 7,000 people who made their living at hatting, that the manufacturers had tried for many years to control this industry, but that they had failed and the manufacturers had received but very little out of it and the employees fared worse, and finding that the manufacturers were not competent to control it, they had made up their minds that they would, that it was a limited business and that a good living could be had out of it, and by controlling the labor, the men 4067
could get good wages, and they did not care how much money the manufacturer was making." I then stated "It would seem that you are called upon to right the wrongs of the hatting industry?" "Well," he says, "in a way. You may call this a trust, and perhaps it is a trust, but it is the only thing for us to do to get a good living out of the industry, we want to get a living for our men—

Q. You are giving this entirely from your memory? A. Entirely from my memory. He started in though, I left that out, the first thing he started on was, "Mr. Loewe, 4068
I have called you to this conference as I am told there is a misunderstanding regarding the employment of boys." I asked him what it was, that I hadn't heard anything about it. "Why," he says, "they have spoken to me about it. It is a misunderstanding ,and I want to clear it up." I asked him what it was. Why, he says, "the employment of boys in the squaring department." I said, "Was there a misunderstanding?" "Why," he says, "there seems to be." And I had my memorandum with me and looked it over, and showed it to him. I said, "Now you remem-

1069 ber the conference we had in March?" He said, "Yes." "Now, I asked you we notice that union men must be employed for wining, rounding, pressing, squaring, curling and packing; what must we pay these men per day?" And you see what you answered, and then if you remember I asked you about the jurisdiction of squaring, and didn't you say, then, that squaring does not apply to soft hats, and that you were in doubt as to curling." He said, "That is correct." "Then," I says, "there is no misunderstanding," and then I asked him what he was doing it for, and he told me about representing the United Hat-

1070 ters and so on. I told him if he represented the United Hatters and had to look after their interests and was responsible for their interests and that he had to right the wrongs or their wrongs, why didn't he go to Yonkers where I understood a thousand hatters were on strike, and where there is a strike there must be something wrong, and why not go down there? He stated we are not ready to take Waring.

Q. That is the Yonkers factory? A. Yes. "We want you first."

Q. Did you subsequently meet any of these officers of

1071 the United Hatters? A. I think about two days after on Friday morning, I received a telephone from Mr. Moffitt.

Q. That would be August 1st? A. Whatever it is, very likely. That was July 30th and this would be August 1st.

Q. What was said there over the telephone between you and Mr. Moffitt? A. He asked for an interview and I told him I would be pleased to see him, he could come to my office. He said he would.

Q. Did he come? A. He did.

Q. That same day? A. That same day.

1072 Q. What conversation took place between you and Mr. Moffitt at this meeting? A. Mr. Moffitt presented his card, and after he was there in the office and had taken a seat, he says, "Mr. Loewe, I understand that you blame officers for doing all this and calling the men out; now that is not so, your men have been asking for some time with their grievances and wanted me to take this action, but I waited until now." Says I, "Mr. Moffitt, it takes a bigger man that you are to tell me that my people were not true to me, that if they had any grievances, they would not come to me and tell me their griev-

ances, because whenever there have been any grievances pre- 4073
sented to me, I have tried to adjust them, and they know I am accessible to them." "Why, Mr. Loewe, you don't know your people. I just came from a meeting where I gave them a talking to. I wanted to know certain things, I told them I was running this. I have half a dozen affidavits in my opcket stating that they had a grievance." Says I, "Mr. Moffitt, if you have affidavits in your pocket, let me see them. I don't believe it." "Yes, I have," he says. I said, "I want to see those." "No," he says, "I want to get a dozen before I present them to you." Then he quieted down. Says he, "Mr. Loewe, I have
been around and seen a great deal of your trade, and your cus- 4074
tomers tell me that they want a union label. They like them, they like your goods, but they tell me "You tell Mr. Loewe, to put a union label in his hats and we can use 100% more." Says I, "Mr. Moffitt, did they tell you that?" He says, "Yes." Says I, "Did you tell them that they would not get the same kind of a hat if I put the label in?" He says, "Why can't that be fixed, that can be fixed all right." I says, "No, you know under union rules and conditions and restrictions we could not put the same fur in, we could not make the same hat." He says, "Why can't you cheapen it down and make it up that way?" Says I, "No that would not be the same hat, would it?" "Well," he 4075
says, "there is a demand for a union label, and if you adopt that label you will find that it will be to your advantage." I says, "Well, Mr. Moffitt, I have been through all this matter, I have had it under consideration, and I am not acting hastily. If I should acquiesce in your demands to unionize the factory and adopt the label, as you would say, I would soon have to make a higher class of goods here, and then I would not find a market for them, or in other words, I would soon die of dry rot, "which, as the term has been used, means a business gradually run down on account of insufficient business, it would go under. Then "On the other hand I am not an old 4076
man yet, but what I can take it up once more. That is my duty and I see it clearly defined. You are doing your best to ruin me now, and if you persist in it, you will, but I shall endeavor to build up a new business on new lines, and if I go under, I will place the responsibility where it belongs."

Q. Did he say anything about Mr. Roeloff's? A. Yes, why he said, "Mr. Loewe, you know we have made up our minds, we never lost a case, and we won't lose this case, we never have lost a case and we won't lose this case. You re-

1077 member," he says, "Roeloff was a large concern and Berg was a large concern; why, we unionized them; you remember we spent $23,000 to get Roeloff." I says, "Yes, you may have spent $23,000 to get Roeloff, you can spend that much and more trying to get me. I know my duty, and I know what I shall have to do, and you will not get me to unionize the factory."

Q. Did Mr. Moffitt say anything about the conditions in your factory? A. Yes. He stated that before, and said that at the time.

1078 Q. What did he state at this time? A. He said, "There won't be any changes to speak of, to get your factory in union condition, because the conditions are all right."

Q. Did you say anything as to whether or not there was any discontent in your factory, etc.? A. Why, when he spoke of grievances, I told him that I hadn't any grievance presented to me for the last six months or a year, and there never have been any grievances presented to me but what I would adjust them, and I didn't know of any grievances now.

Q. Did you tell him whether or not your employes had been with you a long time? A. Yes.

1079 Q. What did you say? A. I told him a number of them had been with me for twenty years or more, and that I felt rather badly over the fact that they should be taken away from me. They had been working with me, they knew me and I knew them, and they were familiar faces that greeted me when I entered the factory in the morning. Now through his influence I would be compelled to surround myself with new people and get accustomed to new faces.

Q. Did you say anything to him as to any comparison between the pay roll in your factory and the pay roll in a union factory? A. When he argued about the conditions in

1080 the factory, and making a hat acceptable to the trade, and so on, I told him that I had made it a study, and every hat that I made and that I put on the market I figured everything that went into the hat and the labor that had to be expended on it, and I always tried to give the men a fair earning power; that I never went to other manufacturers for comparison to get from other manufacturers prices, but he could go anywhere from New York to San Francisco or from Maine down to New Orleans and he would not find a manufacturer to whom I had gone and asked for prices, in order to make prices with my

men, and my people had good earning power and would compare favorably with other peoples earning power, and with union men, because they told me so. I had no personal knowledge of it, except what I was told by my own men in the factory who had been away and tried other factories and came back, if he could find any factory or show a pay roll in the soft hat factories that made similar class of goods as mine, and show a better pay roll, or even as good as ours, I would not have any more to say, I would not argue the question any longer. 4081

Q. Is this the last interview that you had with any of these national officers? A. No, when he left me, he said, that I should think it over and he would come and see me again. 4082

Q. Did you ever see him again? A. Yes, he came the following Monday I think, early in the morning, it was early about 9 o'clock, something like that.

Q. Tell what conversation took place. A. He came in and asked me if I thought it over. I told him yes. "Well, what conclusion did you arrive at?" I told him as I told him the other day, I could not come to any other conclusion, that I saw my duty clearly before me, and the duty I owed to the business, and to those people who were still in the factory, as well as our own business, and to the town of Danbury, and I would work out the problem in that way. And I said, "You Mr. Moffitt, have another duty to perform; you send these men back to work. You know it is all wrong you have no business to interfere here and make a disturbance, you send the men back." I talked to him quite a while in that way, to which he did not reply at all, and finally arose and said, "Well, Mr. Loewe, I wish we could adjust it," and he said, "Good bye," and that is the last that I saw of him. 4083

Q. That is the last conversation you ever had with any of these officers? A. With him, yes. 4084

Q. Did he make any further efforts to confer with you, which came to your attention? A. Yes.

Q. Explain how that was. A. I believe that was that same week, a few days after. Mr. Hugh C. Shalvoy, the secretary of the Finishers Association, came in, and stated that Mr. Moffitt extended to me an invitation to meet the directors of the United Hatters of North America who were in session at the Groveland. I replied that I did not care to meet the directors, that I had stated all I could state, "and if I am to

4085 die, I am going to die my way, I am going to show the responsibility where it belongs."

Q. Now will you state what efforts were made to manufacture hats in your factory the week fellowing the strike, what your conditions were in the factory? A. Why we had a great number of hats in the packing room and in the shipping room, that is the room where we have the cases, and where the boxes are brought after they are filled with hats. They usually come in a dozen or half a dozen, and there may have been 100 or 200
4086 dozen in that packing room, all packed in boxes and placed on or near the cases where they were to be placed. Then we had a number of hats in the packing room, unpacked, ready to be packed, and then also we had a number of hats ready to be flanged and our first effort was to get as many of those hats out to fill the orders, as possible, as these were the ones to be shipped at a specified time. Then Mr. Frede volunteerd to take care of the green bodies in the make shop and he worked on those bodies. Then, I don't know in how many days, but very soon after, I think he brought in two men and asked me if he
4087 could employ those two men to help him to save those bodies, and I told him that he could. We did not make any effort to get new help right away for the reason that some of the employes who left us, expressed themselves—Mr. Mulholland:

That is objected to, unless they are identified. Go ahead, I will withdraw the objection.

Q. All right, go on, Mr. Loewe. A. They might come back, so I thought I would leave the places upon for them a reasonable time.

Q. Do you know about how many orders you had on
4088 hand at the time of the strike? A. I think in about the neighborhood of 4,000 dozen.

Q. How did this number of orders compare with the number of orders which you had on hand at any previous time in the history of the concern? A. They were far in excess of any time at that time of the year we ever had before.

Q. That is, do I understand your answer to be, the number of orders that you had on hand at this time were far in excess of the number of orders that you had on hand at any similar time in any previous year? A. Yes, sir.

Q. How much in excess of the same period in 1901? 4089
A. About 1500 dozen.

Q. Did you receive any orders the week following the strike? A. Yes, sir.

Q. Do you remember about how many? A. Why, I couldn't say just exactly how many dozen the week following, but we received about 2,000 dozen, or nearly 2,000 dozen after the first of August.

Q. Shortly after the strike? A. Shortly after the strike.

Q. What efforts did you make to secure employees after the lapse of ten days was it, you waited? A. About 10 4090
days or two weeks.

Q. Well, after the lapse of ten days, what efforts did you make to secure new employes? A. Just as soon as we were told that the officers had told the union men to go and seek employment in union factories, and the non union people in non union factories, we knew that our men were not coming back, so then it was up to us to equip our factory with new help. We put an advertisement in the paper in the hatting districts where non union help could be found, and also sent our Bookkeeper Mr. Sanford out to these places to interview any of those replies, and in this way we received a few.

Q. Where did most of your help come from with which 4091
you equipped your factory after the strike, where did you secure most of your new employes? A. Right in Danbury.

Q. How long was it before you received enough employes to take care of the orders which you were receiving? A. Why, it took us—the orders that we had on hand, and which should have been filled during the month of August, and with the additional orders that we received right in the early part of August, it took us until in October, nearly the first of November before we had filled them all. In the meantime, a number of them had been cancelled.

Q. How long before you got a full equipment of em- 4092
ployees? A. Why, that took us quite a while. We did not find it necessary to fill the factory full of help, because by the time—by October or November, we had enough help to fill the orders that we were receiving.

Q. Well, the first of October or the first of November you had enough help to take care of the orders you received? A. In fact, we sent Mr. Reed out early in November to get orders.

4093 Q. Does that mean that you had as many employees as you had had before the strike? A. We did not have as many, no.

Q. Do you know about how many employees you had at that time in the making and finishing departments? A. This is a memorandum here.

Q. Let's see it. (After examining the memorandum.) Well, I won't offer that. It is there in case you want it, Mr. Mulholland.

Q. When did you first hear of the boycott, Mr. Loewe? A. I think it was about August 27th, when I received a
4094 letter from Brown & Co., one of our customers in Cincinnati, Ohio.

Q. Do you recognize plaintiff's exhibit 85? A. Yes, sir.

Q. You state what you did personally in connection with that exhibit.

Mr. Merritt:

This is the warning which was already read to the jury and it reads as follows:

"Warning to the members of all labor unions.

Notice is hereby given that the undersigned will hold each
4095 and all the members of all labor unions, individually and collectively, responsible for all damages which we may sustain in our property or business by reason of the unlawful acts of such labor unions or any of the officers or agents thereof.

Dated at Danbury, Conn., August 23rd, 1902. D. E. Loewe & Co."

The foregoing notice is issued in order that all members of unions may be informed as to their individual liability for the unlawful acts of the unions or officers or agents of the unions, whether said acts meet with the approval or disapproval of the individual members of the union. D. E.
4096 Loewe & Co."

Mr. Merritt:

To that is attached the injunction in the case of the brewers in Massachusetts.

Q. Will you state what you did in connection with that Exhibit 86, Mr. Loewe? A. I have been told—

Mr. Mulholland:

Well, I object to what you had been told. The question is, what you did, Mr. Loewe.

Q. Well, after examining that, will you state whether or not you heard of the boycott prior to that time? A. I did. 4097

Q. What time was it, in relation to that you first heard of the boycott? A. Immediately after it appeared in the paper, and then I was also told by—

Q. Just a moment, immediately after what appeared in the paper?

The Court:

Told by whom?

The Witness:

That the union help were to seek employment. I may be mistaken, it may not have appeared in the paper but I was told that the union help were to seek employment in union factories and the non union help in non union factories. 4098

Q. Was it prior to the time you issued that notice Exhibit 86? A. Yes, sir.

Q. How long prior? A. Why, soon after Mr. Burnham told me. He told me—

The Court:

Who is he?

The Witness:

Mr. Burnham is the foreman in the forming room.

Q. And soon after Mr. Burnham told you this, you arranged to issue this notice? A. Yes, sir. 4099

Q. What did you do in connection with that notice yourself personally? A. Mr. Charles H. Merritt—

The Witness:

I had been conferring with Mr. Charles H. Merritt, a manufacturer of stiff hats about these matters, he was a friend of mine and had been for a number of years. We had talked these matters over quite often, and when I was in this trouble we used to take walks south of my house and on the mountains, and shady walks, and many a time he would call for me, and we would take walks and talk over the situation at the time when I was in trouble, and when this matter came up that they had sent agents out, although we had not heard from any customer at that time, yet I felt that it was coming. I asked Mr. Merrit, "What can I do, I cannot believe that our people—that the Danbury people, the Danbury citizens will allow this work to go on, and be members of the union"— 4100

4101 Q. What I want to know is, Mr. Loewe, how that notice came to be issued? A. Then Mr. Merritt offered to do that for me.

The Court:

Who was behind it?

Q. He offered to have this notice gotten out? A. He did it for me, because I was busy getting my factory started.

Q. Was it done at your suggestion or at his suggestion? A. It was my suggestion.

Q. He offered to arrange for it? A. Yes, sir, and afterwards I asked him for the bill which he had not pre-

4102 sented.

Q. What else did you do in connection with this warning Exhibit 86, which you arranged to have issued, did you arrange to have it published in any other way? A. In the paper.

Q. In the Danbury News? A. In the Danbury News.

Q. For what period of time? A. For one week beginning August 25th.

The Court:

That is a daily paper, isn't it?

Q. That is a daily paper in Danbury? A. Yes, sir, the

4103 Danbury Evening News.

Q. The paper concerning which Mr. Flint testified? A. Yes, sir.

Mr. Merritt:

I offer to read in evidence this advertisement in the paper.

The Court:

Hasn't it been read?

Mr. Merritt:

Not from the paper. It has been read in the record appears clearly, that it is a copy of that, Exhibit 86, which appears as a warning, all right.

4104 The Court:

It may be read.

Exception by the defendant.

Mr. Merritt:

I am reading now from the Danbury Evening News of August 25, 1902. The notice is as follows:

"Warning to the members of all labor unions.

Notice is hereby given that the undersigned will hold each and all members of all labor unions individually and collectively responsible for all damages which we may sustain in our

property or business by reason of the unlawful acts of such labor unions or any of the officers or agents thereof. 4105

Dated at Danbury, Conn., August 23rd, 1902, D. E. Loewe & Co.

The foregoing notice is issued in order that all members of unions may be informed as to their individual liability for the unlawful acts of the unions or officers or agents of the unions, whether said acts meet with the approval or disapproval of the individual members of the unions. D. E. Loewe & Co."

Mr. Merritt:

I wish to state for the purposes of the record, that that appears in each number of this Daily paper for one week following and including August 25, 1902. 4106

Q. Now, Mr. Loewe, will you state whether or not at the time immediately following the strike there were cancellations of orders? A. There were.

Q. Do you remember whether or not there were any cancellation of orders which had been placed by William P. Montague & Co.? A. Yes, sir.

Q. Do you know what the amount of those cancellations were? A. About 600 dozen.

Q. Were there in addition to that 600 dozen, any others at any other time? A. Yes, but he withdrew the cancellation about 600 dozen at one time. 4107

The Court:

Haven't you got these cancellations in shape so we can tell them right off, without questions and answers?

Mr. Merritt:

No, Your Honor, I have not. I don't know whether he has or not. I think before the court convenes tomorrow morning, that he may be able to secure that and for that reason I will pass that part for the time being.

Q. Now after this strike, Mr. Loewe, it has been testified here that a better grade of hats could not be manufactured, and the grade No. 3 and No. 2XX have been referred to. Will you state what grade No. 3 and No. 2XX were? A. Grade No. 3 we use for $15.50 and $18.00 hats and also the 2XX in some instances we would use for the $18.00 hat and also for the $19.50 and $21. 4108

Q. In connection with your trade with Triest & Co. whether any considerable amount of that trade has been in those two grades? A. No.

4109 Q. What was your principal trade with Triest & Co.? A. $9.00 and $13.50.

Q. In 1902 what was the principal business with them, those three? A. Those three.

Q. Do you know which was the largest? A. I couldn't say now.

Q. Now after the strike how long was it that you produced again the grade? A. I think it was the $12.00 grade.

Q. You mean what was the $12.00 grade? A. The largest number.

4110 Q. How long after the strike was it, you were producing again the $13.50 grade? A. Why, we produced them right along.

Q. Did you receive any replies through the mail concerning this warning Exhibit 86, which you arranged to have mailed to the Hatters in Danbury? A. I think yes.

Q. How many replies? A. I think two.

Q. Well, did you receive any letter or any communication from any one that was signed? A. I did.

Q. Have you this letter? A. This was the letter.

Q. Have you this letter? A. No, I have not.

4111 Q. Who was it signed by? A. Max Pauli.

Q. Do you know who he is? A. Yes.

Q. A Danbury man? A. Yes, sir.

Q. A Hatter? A. Yes, sir.

Q. I will ask you whether or not that letter indicated that the writer of it had received a copy of this circular or warning?

Mr. Mulholland:

That is objected to. Why do we spend time on this when you know that some of the defendants will admit that they received that warning? I don't think this is a competent

4112 way to prove it.

The Court:

I was going to ask if there was any question but what it was received?

Mr. Mulholland:

I think at the last trial quite a number of the defendants admitted that they received such a circular.

The Court:

Well, you may hold that until your rebuttal if necessary.

Q. Did you ever solicit any business yourself in New York, Mr. Loewe, from any of your New York customers? A. Yes, sir. 4113

Q. Did you ever solicit business from Denzer, Goodhart & Co.? A. Yes, sir.

Q. Did you attempt to solicit any business from them in the year 1902 and '03? A. Yes, sir.

Q. Who did you talk with? A. Mr. Denzer.

Q. Will you state whether or not this concern reduced the number of its purchases at this time? A. It did.

Q. Did Mr. Denzer at this time ever explain to you why they reduced their purchases? A. He did. 4114

Q. What was the occasion of this explanation, were you attempting to sell him goods? A. Yes.

Court adjourned until 10 A. M. Wednesday.

Wednesday, September 18th, 1912, 10:00 A. M. Morning session.

Direct examination of

D. E. LOEWE,

Resumed by Mr. Merritt:

Q. Mr. Loewe, can you give me the cancellations or the names of the customers who cancelled orders in 1902 after the strike? A. I can. 4115

Q. Will you give them? A. Sullivan & Dunn, New York, cancelled their August and September—I didn't put the number of dozen. Don't remember.

Q. Will you give the list of customers?

Mr. Beach:

Is he giving the amount too?

The Court:

Yes, that is what I was wondering, if he has got them down.

The Witness: 4116

I haven't here.

By Mr. Merritt:

Is there any way of getting at the amounts? A. No, not the amounts very well; get the number of dozens.

Q. I mean as to the number of dozens? A. Why, it would be difficult because some of them we might not have the original order; but those that we have in the order book—

4117 we have got the order book right here in the building. We can take them from that.

Q. How long would it take to prepare them? A. Oh, it would take me some time.

Q. What do you mean by "some time"? A. Why, I could do it this evening perhaps.

Q. Well, we will go on with the other branch of the matter. When we adjourned you testified, as I recall, that you called on Mr. Denzer of Denzer, Goodhart & Scheuer for the purpose of selling them goods? A. Yes, sir.

4118 Q. And I asked you for the conversation with Mr. Denzer, to which there was an objection. The record shows that this concern did not buy as many goods—Mr. Loewe so testified, and that when he went to them to try and get them to buy goods they gave him this reason why they could not take as many; and I have asked for the reasons that were given by them, in the ordinary course of business, when he was attempting to sell them goods. The foundation has been laid in that way.

The Court:

Well, he can state. Now, I think I have already given my idea of that kind of evidence—conversations stating the

4119 facts as a fact, that their reason given was on account of the boycott—the strike, is admissible, given at that time.

I observe that at that former trial of this case the trial court took the view that they must state what was said; which to my mind, might include hearsay. I make this suggestion as to this class of evidence, for the guidance of counsel in the matter.

Mr. Merritt:

I think I see Your Honor's position in the matter

Q. I want you to give me such part of Mr. Denzer's conversation as was given to you at that time as an explana-

4120 tion of why they were not able to buy as many of your goods.

Mr. Mulholland:

We except to it.

A. He gave as his reason that he could not use—

The Court (Interrupting):

You will be permitted to put a leading question; state whether or not he gave as a reason, the action of the labor unions.

Witness:

He did.

The Court:

And I say in this connection that if counsel for the defendants prefer that he should state the conversation, he can give it. 4121

Mr. Beach:

I think, if Your Honor please, that we would prefer a brief statement of the conversation. As to the witness's conclusion, that is too general.

The Court:

With this statement of counsel for defendants that may be done.

Mr. Beach:

That is that statement waives the objection to its being hearsay? 4122

The Court:

Yes.

Q. Will you give the conversation which you had with Mr. Denzer at this time in this connection? A. Mr. Denzer stated; I can't give you as many orders as before. My customers have been visited by agents, and now the customers demand the label in their goods; that is, a great many of them. That is about the substance of it.

The Court:

The union label? 4123

The Witness:

The union label, yes.

Q. Did you in 1902 have a customer by the name of J. R. Worthley & Son? A. Yes.

The Court:

Let me ask you, Mr. Beach, whether you want this to apply to each one of these?

Mr. Beach:

Unless we make objection it may be understood that we waive that.

The Court: 4124

You may proceed, Mr. Merritt.

Q. I will ask you first, Mr. Loewe, where Denzer, Goodhart Scheuer sold their goods, if you know? A. Principally in New York State, Pennsylvania and the Middle States.

Q. They were jobbers? A. They were jobbers.

Q. Now in regard to J. R. Worthley & Son, can you state whether or not their purchases decreased at this time? A. They did.

4125 Q. Did you have any conversation with any one representing that concern? A. I did.

Q. Relating to this decrease of purchases? A. Yes.

Q. What was the occasion of that conversation? A. Mr. Worthley had placed some orders with us, and he came in to see me Fridays when I am in New York, and wanted to know what day he could expect his orders.

Q. When was this conversation? A. This was in August, and also in September, 1902.

Q. Did you see him nearly every week? A. Yes.

Q. And you saw him at your store from time to time?

4126 A. Yes.

Q. Was this in connection with the sale of your goods to them? A. Yes, sir.

Q. Did he at any of those meetings you had with him in the ordinary course of business give any reasons why he could not buy as many goods? A. He did.

Q. What did he state in that connection? A. He stated that he had been visited and also that his customers has been visited by agents of the labor union men.

Q. Did you, in 1902, have a customer by the name of Wechsler, Laufer & Co.? A. Yes, sir.

4127 Mr. Beach:

Are you going to fix the date of this interview Worthley, for example?

Q. Well, do I understand that all these were in the— A. (Interrupting) Months of August and September, 1902; usually Friday, because that was my day in New York City.

Q. Where is the concern of Wechsler, Laufer & Co. located? A. In New York; Green Street.

Q. Did their purchases decrease at this time? A. They did.

Q. Did you ever have any conversation at this time with

4128 any representatives of that concern concerning the decrease in purchases? A. Yes, sir.

Q. And with whom did you have this conversation? A. Mr. Brown.

Q. Where did the conversation take place? A. At their store.

Q. At their store? A. Yes.

Q. What was the occasion of your meeting Mr. Brown at this time? A. Why, at first I would report to them every week how their orders were standing. We had a very

large business with this concern, and they depended upon us for a certain class of goods. 4129

Q. Well, was this a visit made in the ordinary course of business? A. Yes, sir.

Q. For what purpose? A. For selling them hats; taking orders and so on.

Q. Now give briefly what reasons, if any, Mr. Brown gave for reducing the purchases made by that concern of your firm? A. Mr. Brown stated that his customers had been visited, and that now they demanded the label, where formerly they bought our goods without the label. But this was not in August and September; this was in October when he heard from his man who had gone on the road. 4130

Q. Yes. Can you tell me where the concern of Wechsler, Laufer & Co. sell their goods? A. In New England and the Middle States, and the South as far as Texas.

Q. Did you in the fall of 1902 have a customer by the name of J. T. Asch & Sons? A. Yes, sir.

Q. Can you tell me whether or not the purchases of this concern from you; or from your firm, decreased at that time? A. Yes, sir.

Q. Did any one representing that concern ever explain to you the reasons for that decrease? A. Mr. Asch did; yes. 4131

Q. And what was the occasion of this conversation with Mr. Asch? A. I was asking him for orders.

Q. Well, what did he say by way of this explanation? A. He told me that he could not use as many goods as he had before. His customers refused to buy them unless they had the label.

Q. When was this conversation? A. It was in September and October.

Q. Did you in the fall of 1902 have a customer by the name of J. R. Gilleaudeau? A. Yes, sir.

Q. Where were they located? A. In New York City. 4132

Q. Did your business with them increase or decrease at this time? A. Decreased.

Q. Did you have any conversation with any one representing that firm as to the reasons for this decrease? A. Yes, sir.

Q. With whom? A. Mr. Gilleaudeau.

Q. When was the conversation? A. I think it was in September.

4133 Q. And what was the occasion? A. I accompanied Mr. Reed to Mr. Gilleaudeau's place of business and asked him for orders.

Q. Are all of those concerns which you have just testified about jobbers? A. All jobbers.

Q. And their customers are retailers? A. Yes, sir.

Q. Had they been customers for many years, or were they just new customers? A. No, they had been customers for a great many years.

Q. Now before I forget it, Mr. Loewe, I will ask you if after you met on March 6th, in the Groveland Hotel, with
4134 these officers of the United Hatters, you did or did not make any memoranda of the conversation which took place? A. I did.

Q. I will ask you if after the meeting which took place on March 20th, between you and Mr. Lawlor and Mr. Maher, you made any memoranda of the conversation which took place? A. The one I had here yesterday, yes, sir.

Q. Did you make any memoranda of the conversation you had with Mr. Maher on or about July 30th? A. I think so.

Q. Now, I will ask you whether before you testified
4135 in this trial you examined your testimony on the former trial for the purpose of refreshing your recollection? A. I did.

Q. And I will ask you whether or not you recall that prior to your testimony in the former trial you examined these various memoranda that you made? A. I did.

Q. Did you examine them before you testified here at this trial? A. No, I didn't, except one. I started in and I was interrupted, and didn't get a chance to examine them.

Q. But you examined your former testimony? A. I did.

4136 Q. And how long after the March 6th meeting was it that you made your memoranda of the conversation which took place? A. Oh, within a day or two thereafter.

Q. How long after the March 20th meeting was it that you—Well, you testified that you made that memorandum at the time when the conversation was taking place? A. Yes, sir.

Q. Can you give me the shipments which were made by your concern immediately following the strike? A. I can.

Q. I wish you would—perhaps before I go into that I will ask you if you are going to refer to a memorandum which was taken from the books? A. Yes. 4137

Q. Perhaps you better tell me what particular books you keep, and all matters of that kind, so that we can understand fully what records are available for the defense. A. Our bills are copied in a copy book, that is a copy press copy is made of them—the invoices which go the same day and are sent by mail to each customer. Then the bookkeeper takes the items from the shipping book and enters them in the sales ledger, which contains the account with each customer, and from the sales ledger these items are carried in the private ledger. 4138

Q. Now then, you have a sales ledger, a shipping book and a private ledger? A. Yes, sir.

Q. And all these three books, or three sets of books are? A. Supposed to be here; in the Marshal's office.

Q. In the Marshal's office? A. Yes, sir.

Q. And they are open for counsel's for the defense to examine? A. Yes, sir.

Q. Are they all books of original entry? A. They are.

Q. Made in the ordinary course of business? A. Yes, sir. 4139

Q. Now these shipments which were made immediately following the strike, from what book were they taken? A. They were taken from these books; from the purchase ledger.

Q. From the purchase ledger? A. I mean from the sales ledger.

Q. Now, will you read those? A. I think you have it there.

Q. Yes; and this paper which you have handed me, Mr. Loewe, contains the list of shipments made by your concern on the respective dates indicated? A. Yes, sir.

Q. The first column is the date? A. The first column is the date, yes. 4140

Q. The second column is the number? A. Yes, number of dozens.

Q. And the third column is the number of dozens to Montague? A. Yes.

Q. And this is in addition to those which appear in the second column? A. No; we always kept them separate.

Q. Well, are they in addition to the middle column? A. Yes.

1035

4141 Mr. Merritt:

Now, I will read these shipments.

The Court:

You want to give a summary of it, and they can cross examine him, if they wish.

Mr. Merritt:

Well, if the defendants don't object to it being put in in that way, I am perfectly willing to have this read into the record without reading it. Just how far it would become important at this stage I am not prepared to say at this time.

The Court:

4142 Of course, it may spread out in detail, but it seems to me you'd better try the other way first.

Mr. Merritt:

Is there any objection to waiving the reading of this?

Mr. Beach:

All we want is to get it on the record so that either side may subsequently refer to any part of it. We have no objection if they will give us a copy of it, either now or at some other time.

Mr. Merritt:

4143 I ask the stenographer to copy it into the record.

1902.

Shipment	July	18	97-9	22-6	Montague
		19	169-5	38-7	
		21	126-1	38-8	
		23	418	17	
		24	227-2	46	
		26	73-8		
		29	83-9	12	
		30	80		
		31	66	12	
4144	Aug.	1	105-6		
		2	50-1	14	
		5	62-3	9	
		7	50-6	4	
		8	13		
		9	46-3		
		11	37-5	20	
		12	28-8	7	
		13	43-6	24-6	
		14	19-3		
		15	56	19-6	
		16	30-2	7-6	

	18	16-6	9		4145
	19	23-1	7-6		
	20	23	6		
	21	56	28-6		
	22	31-6	4-6		
	23	69-6	19-6		
	25	41-6	18-6		
	26	37	6		
	27	71	49		
	28	42-1	7		
	29	45	12		
	30	66-11			4146
Shipment	Sept. 2	6 doz.			
	3	70-7	23	Montague	
	4	63-2	4		
	5	59-6	10		
	6	86	31-6		
	8	32-6	11		
	9	55	26		
	10	87-3	28-6		
	11	106-6	31		
	12	97-1	51		
	13	37	4		4147
	15	74	20		
	16	62-11	15		
	17	110-7	48		
	18	101-6	17-6		
	19	51	9		
	20	75-2	22-6		
	22	85-6	20-6		
	23	55-5	9-6		
	24	57-11	17-6		
	25	118	29		
	26	135-6	19		4148
	27	34-3	17		
	29	112-7	49		
	30	115-7	16-6		
	Oct. 1	78-6			
	2	159-9	27-3		
	3	73-7	18		
	4	98-3	32		
	6	104-6	17		
	7	79-	25		

4149		8	124	15
		9	161	40
		13	52-6	12
		14	77	16
		15	140	25-4
		16	117-6	29-6
		17	144	17
		18	82	12
		20	77-6	
		21	37	10-6
		22	107-6	12-6
4150		23	153-4	25
		24	100	6
		25	93	29
		27	134	12
		28	73	23
		29	98-3	1-7
		30	116-6	21
		31	92-11	15
	Shipment Nov.	1	50 Doz.	4 Montague
		3	58	6-6
		4	120-5	
4151		5	85	7
		6	114	9
		7	150-6	4
		8	72	
		10	115	-6
		11	125	11
		12	117	6
		13	139	12
		14	88	12
		15	114-10	12
		17	78-11	13-7
4152		18	160	16
		19	106-9	
		20	88-	3
		21	113-5	
		22	81-1	8
		24	97	6
		25	79-8	8
		26	137	3
	Dec.	1	137-6	6
		2	150	13-6

3	99		4153
4	144	10	
5	156	4	
6	97-6	8	
8	145-6	10	
9	96-6	26-6	
10	62	12	
11	114-3	7	
12	137	12	
13	54		
15	86-6	16-6	
16	127-8	25	4154
17	159	18	
18	102-2	20	
22	122-2	50-9	
23	92-11	16-6	
24	79	53	
29	98	27	
30	136-3	75-3	
31	58-6	12-9	

The Court:

Is there any summary to it?

The Witness: 4155

Here is a summary.

Q. These figures which you just handed me, Mr. Loewe, are they a summary of the shipments made during the year and months therein indicated? A. As appear on our sales ledger, yes, sir.

Mr. Beach:

Are they sales or shipments?

Q. Shipments, are they not? A. Yes, they are shipments.

Mr. Merritt:

I will take the twelve months of 1902: 4156

"1902.

January	Doz.	Wm. P. Montague Co.
	2410	495 4-12 doz."

Mr. Beach:

Is that in addition? (Referring to Montague.)

Mr. Merritt:

That is in addition.

4157

		Wm. P. Montague Co.
"February	2961 doz.	1117 3-12 doz.
March	2087 6-12 "	437 5-12 "
April	1828 7-12 "	179 11-12 "
May	2161 7-12 "	40 6-12 "
June	1784 "	193 2-12 "
July	2073 10-12 "	358 3-12 "
August	779 3-12 "	288 2-12 "
September	1378 9-12 "	530 "
October	2266 3-12 "	431 8-12 "
November	2143 4-12 "	142 8-12 "
4158 December	1923 2-12 "	523 10-12 "

Q. Can you tell me, Mr. Loewe, under normal conditions, in 1902, what would be the largest month or the month in which the largest number of shipments would be made? A. August and September.

Recess until 11:05 A. M.

Q. Mr. Loewe, I will show you a paper containing a list of hat dealers, etc., and ask you what that is? A. This is a memorandum made, or a copy of the summary of the business which we did with each customer for the years indicated, taken from the—

4159 Q. That is taken from what? A. From the sales ledger.

Q. And this memorandum contains a list of all your customers during the years 1900 to 1903, inclusive? A. Every one of our customers and all of our business that we did with anybody during those years in dollars and cents.

Q. And it contains the amount of busines done with each customer each year? A. Yes, sir.

Q. And this is correct according to your books? A. Yes, sir; I had it prepared from the books.

4160 Q. And I will show you another paper and ask you what that is? A. That is the same for the succeeding years.

Q. Then it is the same as the other paper, except it covers the years 1904, 1905 and 1906? A. Yes, sir.

Mr. Merritt:

Now, Your Honor, I offer to read to the jury the names of Plaintiff's customers and the amount of business done with each for each year from 1900 to 1904, as appears on these papers.

The Court:

If you can give a summary of the business of each year, you needn't read the list. 4161 3

Mr. Merritt:

First, I would like to have this copied, just for the years 1900 to 1904 inclusive. We do not offer the years 1905 and 1906. If the counsel for defendants like to offer them, they are available for that purpose, and can go in without objection from us.

There are several objections that are available, it seems to me. In the first place, we shall claim that in no event is the diminution of the plaintiffs' total business chargeable to these 4162 1 defendants without some proof of an actual transaction which connects the defendants, or some of them, with such loss in the case of each specific customer.

In the second place, if the aggregate figures for each year are intended as a standard of comparison from which to estimate damages, then we object that the profit for the period of the calendar year of 1900, and 1901 is not a fair basis of comparison for the entire year of 1902, for the reason that during the year 1902—seven months of that time—the plaintiffs' business was decreasing without interference so far as these defendants were concerned; we cannot certainly be charged with 4163 5 losses that happened during that period. And in 1903 we make this objection, in order to preserve our claim that the period for which damages are recoverable in this action ends at the time this action was commenced, anyway, on or about the middle of September, 1903; and therefore a continued loss, if any, is not chargeable to the defendants in this action, or any of them.

The Court:

Well, suppose the jury should find that that loss grew out of acts committed before the bringing of the suit; then, under the ruling the court has already made, I think this evidence is 4164 3 admissible. You can proceed, Mr. Merritt.

Mr. Beach:

Note our exception.

And for a like reason—that the period for damages, collectible in this action, ends with the middle of September, 1903; we object to the proof of the plaintiffs' business during the year 1904, but if, and as the court admits it, we claim the right, without waiving our fundamental objections, to make such proof as may seem desirable to prevent the jury from as-

4165 sessing these entire damages as due to something happening before the beginning of the suit.

The Court:

In admitting this evidence, it may or may not be considered by the jury on the points that you raise relative to the complaint—the question that was raised—what day was it, do you remember, Mr. Beach?

Mr. Beach:

No, sir.

Mr. Davenport:

It was that very hot day.

4166 The Court:

You called the attention of the court relative to the complaint, concerning October 31st; that is what I refer to now. That question is still open.

NEW YORK STATE.

	1900.	1901.	1902.	1903.
Wechsler Laufer & Co.	$47,091.03	$46,073.41	$21,395.03	$22,307.68
B. F. Hawes	1,114.50	72.		
Wm. P. Montague Co.	29,440.84	44,555.19	32,371.22	34,640.16
H. A. Rosenfield & Co.	457.50			
Young Bros.	76.50			
Louis Marks	2,659.49	2,441.85	5,457.42	2,676.30
Phillips, Anderson & Co.	3,337.28	4,687.77	539.88	40.50
John Ray Clark Co.	684.	2,238.04	106.50	
John Taylor & Sons	783.	892.50	559.50	157.50
R. E. Bonar & Co.	1,684.94	13.50		
Sullivan & Dunn	1,535.04	999.63	675.75	
Delling Phelps & Raby	2,646.38	1,545.71		
Freeman Brothers	18,422.56	520.52	5,881.14	8,149.
G. W. Leach	5,925.49	5,553.10	1,839.56	616.28
Bill & Caldwell	4,182.37	553.88	360.73	
J. S. Sheild & Co.	2,176.71	6,677.41	980.63	
Sol Ducker & Co.	7,707.42	7,487.60	3,607.25	343.25
R. Goldsmith	851.76	468.		
J. R. Worthley & Son	3,180.11	6,359.98	2,935.63	2,033.51
Eichhold & Miller	10,540.09	8,712.66	3,320.07	4,077.88
Seiter & Seiter	320.03	121.50		
Hackett Carhart & Co.	2,241.83	117.		
Salmon & Cook	7,145.45	1,939.54		

4171 5

4170 4

4169 3

4172 3

	1900.	1901.	1902.	1903.
N. J. Thompson & Co.	448.51	73.50		49.
Leon Rothenburg	1,812.49	6,495.92	2,720.39	
Saks & Co.	635.38	453.50		
Louis Borchard	930.25	1,278.53	536.25	1,236.75
Charles Burhans	499.13			
Max Hilborn	430.25			
Phillipson & Loewin	905.10	1,008.50		655.
Denzer, Goodhart & Scheuer	2,068.63	5,271.26	8,303.94	9,577.97
J. T. Asch & Sons	4,348.14	3,654.54	448.38	7,926.59
Maynard & Co.	2,422.68	215.55		
Wallach Brothers	121.50			
Slater Sielken & White	3,417.03	719.25		508.50
Max Goldwater	76.			
J. R. Gilleaudeau	1,831.88	2,164.18	806.88	
Walhizer & Dryer	506.13	118.25	45.	
Seiter & Sheldon	216.	476.26		
Chas. Levy Sons	381.	1,916.25	811.	193.50
C. B. Rouse	63.			
Cottrell & Leonard	12.	133.50		
A. Frendenthal	152.50	97.		
Torrens Van Deel Co.		1,266.88	247.76	
M. C. Delling		609.		
Julius April		30.		
Lazar Jacobson		194.		235.63

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VERTICAL IN

	1900.	1901.	1902.	1903.	
Sol Marks		81.	24.	472.50	
The Phelps Raby Co.		1,477.01	763.50	2,144.63	
Lustig Bros.		162.			
Rohmheimer & Keller			837.	324.	
Melville Hat Co.			182.25		
East Side Bargain House			45.	312.50	
Frank & Endel			72.		
Kinsie & Lavine			111.		
J. C. Heishman			72.		
Boyce & Milwain			186.75		
B. H. Kaufman				10,472.75	
Western Hat Co.				356.25	
O. F. Dailey				3,148.36	
		CALIFORNIA.			
Triest & Co.		$79,638.13	$86,065.96	$82,360.97	$81,246.32
C. H. Meyer & Brothers		9,013.34	6,263.75	1,489.75	93.75
Louis Klein & Co.		959.25	6,222.63	4,442.38	713.26
Pacific Coast Hat Works		108.			
		PENNSYLVANIA.			
Eli Keen's Sons		30,370.34	31,170.74	18,763.86	4,518.46
Aug. Thomas & Co.		627.82	54.		
George B. Wells		5,585.30	7,116.69	4,585.01	5,019.89
J. J. Seeds & Co.		5,917.22	12,910.72	3,586.51	891.75
John McCardle		3,524.59	3,527.25	4,867.41	5,468.26
	4180 3	4179 5	4178 4	4177 3	

	1900.	1901.	1902.	1903.
4181				
L. J. Selliez	606.90	1,218.	665.64	829.50
C. H. Wieand & Co.	3,006.50	1,038.75	520.75	
Oglever, Welsh & Co.	1,336.50	720.	2,778.88	243.
Wiernik, Edelstein & Co.	1,012.75	4,382.36	3,506.17	737.05
4182				
R. G. Gamble	542.	553.50		
M. Arnfeld & Son	585.			
Reading Hat Co.	823.			
Thomas Rickert & Co.	468.	561.25	1,157.50	2,112.88
Kark & London	432.	1,093.63		
Curley Heilner & Co.		492.25	510.	
W. J. Moreland		774.	261.	
Kaufman Bros.		153.		180.
4183				
Alexander Sloan Jr. & Co.		114.39	548.46	315.30
Geo. E. Dietz		180.		
Tracy Hat Co.		6.50	138.25	197.75
H. Rothschild				112.50
Gimbel Bros.				987.
4184				
OHIO.				
Brown & Co.	5,449.50	6,407.56	2,766.25	3,147.91
Cincinnati Regalia Co.	126.	180.75	693.	54.
Badger Van Ness & Co.	40.50			
Gotheiman & Gibson	1,303.50	1,404.25	283.50	
John B. Finn & Co.	783.	284.55	246.38	
The M. C. Lilley Co.	2,245.50	1,505.75	1,746.75	1,552.88

	1900.	1901.	1902.	1903.
E. B. Robbins & Co.	1,359.50	2,407.76	3,340.14	3,323.50
The Mabley Carew Co.	1,470.01	1,224.	921.	405.
May Clothing Co.	53.25			
Mendel, Berman & Co.	387.	2,183.50	669.75	1,917.50
Klare & Buvinger	613.	669.	1,296.	1,058.
Weed Colburn & Co.	135.			
Balz, Whipple & Co.	459.	144.	81.	288.
Kahn, Fellheimer & Co.	12.			
Baum & Balz		74.13	81.	
Seif Brothers		294.		
Zinn & Judkins			533.63	726.75
A. L. Bassett & Co.				279.75
Thomas Lamb				144.
	MICHIGAN.			
Henderson & Ames	954.24	516.65	1,529.66	701.02
Henry A. Newland Co.			1,208.25	3,849.12
G. H. Gates & Co.				940.
	UTAH.			
Zion Co-operative Mercantile Co.	40.50			
	CONNECTICUT.			
Levy Brothers	166.72	5.25		
Empire Hat Co.	10,347.64	11,070.17	4,312.64	
John A. Moran	405.	36.	191.25	234.
Crofut & Knapp Co.	261.53			

4185 3

4186 4

4187 5

4188 3

	1900.	1901.	1902.	1903.
C. H. Merritt & Son		46.20		
Lee Hat Co.		857.25		
Horsfall & Rothchild			27.	
Sanford & Loomis				8,654.25
E. A. Mallory & Sons, Inc.	6,871.79			
	NEW JERSEY.			
E. R. Wessells	730.75	1,658.28	45.	164.50
E. V. Connett & Co.	1,004.50			
Salisbury & Jacobsohn				748.50
	ARKANSAS.			
Falk, Ottenheimer & Co.	520.84	2,137.17	1,836.25	1,892.50
	MARYLAND.			
W. E. Middlekauff	$16,268.87	18,540.27	9,487.15	
Joyner Witz & Co.	1,784.13	315.		1,429.50
Heishmann & Goodman	756.21	228.		
Adelsdorf Bobbitt & Jones	807.	2,208.18	422.	5,966.03
Baltimore Bargain House	651.13	3,096.	1,997.25	
Tucker & Co.	256.84			
Joyner Witz & Co.		418.50		229.50
G. S. Howser & Co.	72.	180.	504.	3,209.25
Selmore Hat Mfg. Co.			3,218.	7,789.82
G. B. Carlton		234.	90.50	
Goodman & Jones				811.13
Adelsdorf & Bobbitt				1,116.

TENNESSEE.

	1900.	1901.	1902.	1903.
Murphy & Robinson	495.	54.	81.	108.
Wagner, Fisk & Shipp Hat Co.				1,803.

WEST VIRGINIA.

Harper Bros.	385.50			
RHODE ISLAND.				
Fidler Brothers	2,966.56	1,692.62	665.26	366.
Standard Hat Mfg. Co.	112.50	799.50	174.75	
LOUISIANA.				
D. Mercier's Sons.	144.			
Kohn Weil & Co.	462.50	150.		850.50
MASSACHUSETTS.				
Collins & Fairbanks.	27.	13.50		
Moore Smith Co.	14,215.64	16,074.01	8,305.32	2,314.42
Delano & Wheeler	16,939.82	12,596.15	10,731.73	6,931.73
Raymond Syndicate	671.25	1,420.83	1,308.75	286.
North Fisk Hat Co.	72.	186.		
Spaulding & Co.		753.	4,217.01	60.
Coe Ray Creeham Co.		4.		336.75
John H. North & Co.			216.	
A. W. Moriarty			219.	270.50
T. D. Stokes & Co.	$1,644.	$7,672.13	$5,714.13	$ 108.
Hecht & Huschler Co.			144.	
Beasley Couch Co.				1,140.10

4196 4195 4194 4193

	1200	1199	1198	1197
		KANSAS.		
Goldstand Powell Hat Co.		1900. 168.	1901. 144.	1902.	1903. 711.
Joske Bros.		TEXAS. 3.25			
Martin Cott Hat Co.		NEBRASKA.			
Gate City Hat Co.				135.	94.50
Kunody & Forssel		548.50	1,065.38	1,450.	1,028.
Mendel, Weinstock Co.		MINNESOTA.		20.25	243.
Hendrickson Lefler Co.		KENTUCKY.			364.
T. Richter & Son		INDIANA.			144.
Albert Moses & Co.		IOWA.			30.38
The Hub		ILLINOIS.			
Longley Low & Alexander		$3,267.75	$1,905.		
E. A. Armstrong Mfg. Co.		397.50	328.50		
Wm. H. Bush & Co.		8,448.15	18,748.24	3,794.22	$ 112.50
Sweet Dempster & Co.		57.28			
M. Gimbel & Sons		360.			
A. M. Rothschild & Co.			2,520.	1,098.	
				150.	1,240.50
					180.

	1900.	1901.	1902.	1903.
MAINE.				
Byron Greenough & Co.	36.50	2,220.75	1,519.08	1,591.
MISSOURI.				
Rothschild Bros. Hat Co.	478.38			216.
White Branch McConkin H. Co.	990.	1,982.30	1,806.38	4,341.76
Gauss Shelton Hat Co.	150.12	1,155.		
Harkaday & Roe	270.			
Famous	121.50			
Gauss Langenburg Hat Co.		210.37	262.13	1,428.75
Guerdan Hat Co.		3,427.48	601.57	9.
Boogher Force & Goodbar Hat Co.		90.		
The May Co.		1,036.	306.	72.
Jay Smith Hat Co.				499.50
O. G. Lewis Mercantile Co.				768.
CANADA.		3,427.48	601.57	
Union Hat Works	1,062.48			481.81
Dominion Hat Co.	116.64	235.01		
The Anderson Macbeth Co. Ltd.				3,102.
The Waldron Druin Co. Ltd.				230.
McLean Ross			2,019.32	
NEW BRUNSWICK.				
D. Magee Sons				140.25

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WISCONSIN.

	1900.	1901.	1902.	1903.
Straw & Ellsworth Mfg. Co.	541.50			
G. H. Heinemann Mfg. Co.	247.50	197.25	585.75	477.
Louis Saks				450.
Townsend Young Sons	$ 154.05			
J. Fregham & Bro.	373.60	1.13		
Lyne Heilner & Co.	220.50			
B. J. Brown Jr. & Co.	1,122.36	996.		
George & Co.	354.71			
Friedlander Bros.	433.75			
J. Krubewitch & Son	72.			
Wilson & Lumkin	17.88			
Dickerson Homes Co.	135.			
M. Lion & Co.	463.26			
R. & L. Feldstein	472.50			
Nethman Peck & Co.	1.38			
W. Fleischer	17.50			
Schofowitch Bros.	90.		598.20	432.
H. E. Kelly	243.			
Mitchell & Welham	17.			
Thomas Edwards	7.33			
Turner & Jay, Kansas City	99.			
Friedman & Roseman	1,215.			
	6.75			

R. E. Loewe,

	1900.	1901.	1902.	1903.
Seeley Leard & Co.	156.	24.		
Gamble & Finklhor		493.88		
Strachan Bros.		370.27	1,115.75	254.25
Exelsior Hat Co.		27.		2,423.25
R. Rohnheimer & Co.		399.	447.50	
Johnston Woodbury Hat Co., Missouri		334.	36.	
Mackensie Bros., Washington, D. C		157.50		
W. E. Towens			378.	
E. Weiss, Newark, N. J.			175.	
Norwich Hat Works				40.50
May Short Clothing Co.				113.50
Bates Hat Co.				745.50
Meyer Coyhendall & Co.				90.
Levy & Stearns				50.
North Western Hat Co.				85.50

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4213 NEW YORK STATE.

	1904
Wechsler Laufer & Co.	$25.636.49
Wm. P. Montagee Co.	21,918.13
Louis Marks	1,228.25
John Taylor & Sons	78.
Freeman Bros.	5,636.27
G. W. Leach	1,737.63
Bill & Caldwell	
Sol Ducker & Co.	12.
J. G. Worthley & Son	700.50
4214 Eichhold & Miller	5,729.63
Seiter & Seiter	373.50
Hackett & Carhart	43.25
Saks & Co.	391.50
Denzer, Goodhart & Scheuer	15,816.15
J. T. Asch & Sons	2,961.50
Slater Sielken & White	
J. R. Gilleaudeau	
Chas. Levy Sons,	
Lazar Jacobson	
The Phelps Raby Co.	2,606.24
4215 East Side Bargain House	384.
Frank & Endel	
Kinsie & Lavine	48.
J. C. Heishman	
B. F. Kaufman	17,396.89
Browning King & Co.	40.50
Brill Bros.	652.50
C. H. Tenny	242.26
Joseph Schier	288.
J. A. Joel & Co.	
Eastern Hat Co.	
4216 S. Phillipson & Co.	
W. F. Martin	
Wallach Bros.	
Max Dreyfuss	
Moe. Levy & Son	
Young Bros.	
Worthley & Little	
Donnelly Mfg. Co.	
Chas. Godfrey & Co.	
Irving Stores.	

R. H. Macy & Co.		**4217**
Warnack Uniform Co.		
H. J. Harding & Co.		
Sol Marks		
Rohnheimer & Keller	549.38	
	36.	
CALIFORNIA.		
Triest & Co.		
Louis Klein & Bro.	$63,569.54	
B. Pasquale		
J. M. Litchfield & Co.		
Friedlander Bros.		
PENNSYLVANIA.		**4218**
Eli Keen's Sons		
George B. Wells	2,529.26	
J. J. Seeds & Co.	5,163.91	
John McCardle	15.	
L. J. Selliez	3,562.52	
Wiernik, Edelstein & Co.	880.50	
R. G. Gamble	441.	
Thomas Rickert & Co.		
Alexander Sloan, Jr. & Co.	257.50	
Gimbel Bros.	396.60	
H. Rothschild	537.	
D. Klein & Bro.		**4219**
Henderson & Co.		
W. Stokes Kirk		
Jacob Reed's Sons,		
C. H. Sass		
S. Abra.		
H. J. Cornman		
W. E. Zierdan		
OHIO.		
Brown & Co.		
Gothennan & Gibson	5,390.25	
The M. C. Lilley	526.50	**4220**
E. B. Robbins Co.	1,600.40	
The Mabley & Carew Co.	2,948.25	
Mendel Berman & Co.	283.50	
Klare & Buvinger	2,367.	
Weed Colburn Co.	1,292.13	
Balz Whipple Co.		
Kahn Fellheimer & Co.	72.	
John B. Finn Hat Co.	2,100.	
	396.	

44221	Baum & Balz	72.
	Seif Bros.	
	Zinn & Judkins	1,776.75
	A. L. Bassett & Co.	
	Capital City Hat Co.	
	Pettibone Bros. Mfg. Co.	
	Cincinnati Regalia Co.	
	The Block Co.	
	Crane Gregg Hamil Hat Co.	
	May Co.	
	Searns & Co.	
44222	MICHIGAN.	
	Henderson Ames Co.	1,019.37
	Henry A. Newland Co.	518.
	G. H. Gates & Co.	398.
	Newland Hat Co.	2,183.75
	Detroit Regalia Co.	
	CONNECTICUT.	
	John A. Moran	306.
	Horsfall & Rothschild	100.50
	Sandford & Loomis	13,137.83
44223	ARKANSAS.	
	Falk Ottenheimer & Co.	2,931.
	TENNESSEE.	
	Murphy & Robinson	688.50
	Wagner Fisk & Shipp Hat Co.	92.50
	Marks & Fader	4.
	Warren Neeley & Co.	72.
	S. C. Dismakes & Co.	567.
	Dismakes Niles Hat Co.	288.
	Sperry Walsh Hat Co.	204.
	Cohn Abram & Co.	
44224	WEST VIRGINIA.	
	Harper & Bro.	36.
	RHODE ISLAND.	
	Louis Fidler	6.
	Fidler Bros.	6.
	Standard Hat Mfg. Co.	402.50
	MISSOURI.	
		1904
	White Branch McConklin H. Co.	$2,362.50
	Famous	1,340.
	Byron Greenough & Co.	157.63

Gauss Langenburg Hat Co.		
Boogher Force & Goodbar Hat Co.		**4225**
May Co.		
E. J. Roe Hat Co.	425.25	
Rothschild Bros. Hat Co.		
ILLINOIS.		
The Hub		
Longley Low & Alexander	4.	
Marshall Field & Co.	13.98	
Albrough Bros. Dores & Co.	4.	
Parrottee Beals & Co.	27.38	
Wm. H. Busch & Co.	366.	
Rothschild & Co.		**4226**
Gatley Furnishing House.		
WISCONSIN.		
Geo. H. Heinmann Mfg. Co.		
Middleton Mfg. Co.		
Morawetz Co.	431.50	
Western Hat Co.	481.50	
Gimbel Bros.		
MASSACHUSETTS.		
Moore Smith Co.		
Delano & Wheeler	879.50	
Raymond Syndicate	6,832.01	**4227**
Coe. Ray Creeham Co.	408.	
A. W. Moriarty	676.	
Lamson & Hubbard Co.		
Harding Uniform & Regalia Co.	6.	
Oak Hall Clo. Co.		
The Model		
A. Whitford		
MARYLAND.		
Baltimore Bargain House		
Joyner Witz & Co.	$2,832.09	
G. S. Howser & Co.		**4228**
Selmore Hat Mfg. Co.	1,155.50	
Goodman & Jones	14,135.18	
Royal Hat Co.	1,973.25	
Markel & Levine	36.	
E. T. Jones & Co.		
LOUISIANA.		
Kohn Weil & Co.		
Rubin Kahn & Co.	4.	
	598.50	

4229	Kahn Brunner Co.	
	Landuaer & Meyer	
	KANSAS.	
	Goldstandt Powell Hat Co.	36.
	W. H. Siker	
	TEXAS.	
	Joske Brothers	324.
	Texas Hat Co.	6.63
	Handley Hat & Grove Co.	
	G. A. Mistret	
	VIRGINIA.	
4230	Hecht & Huschler Co.	144.
	Beaseley Couch Co.	4,230.97
	Etchison Hat Co.	552.
	NEBRASKA.	
	Martin Cott Hat Co.	130.50
	NEW JERSEY.	
	Sailsbury & Jacobson	447.
	Tate & Co.	
	E. V. Connett & Co.	
	KENTUCKY.	
	Mendel, Weinstock & Co.	
4231	Swam Abram Hat Co.	$ 912.
	CANADA.	
	The Anderson Macbeth Co. Ltd.	84.
	The Waldruin Co. Ltd.	360.
	Des Jardine McLean Co.	135.
	J. A. Paquet	48.85
	J. C. Saulier	
	NEW BRUNSWICK.	
	D. Magee Sons	36.
	B. B. Manzes	
	IOWA.	
4232	T. Richter & Co.	
	P. H. Meyer & Son	
	NORTH CAROLINA.	
	Little Long Co.	783.
	GEORGIA.	
	Atkins McKeldin & Brown	1,796.
	Arnold Hat Co.	
	MINNESOTA.	
	Red Wing Hat Mfg. Co.	509.75

WASHINGTON.	
J. T. Hardman Hat Co.	
F. C. Kavanagh	162.
INDIANA.	
A. P. Hendrickson Hat Co.	
C. W. Lifler	216.
Torian Barbour Hat Co.	$193.50
OREGON.	
Charles Coopey	
Excelsior Hat Co.	
Meyer Coyhendall & Co.	400.87
Love Scott & Jaurish	253.
M. Heyman	994.36
Peter Chaplin	41.25
B. Miners	1,478.40
Eagle Hat & Millinery Co.	
Cornelius Soock	
L. Wounser.	

4233

4234

By Mr. Merritt:

Q. I now show you another paper, Mr. Loewe, and ask you what that is? A. That is a record of sales taken from our sales book—ordered for shipment—from our books, from August to August of those years as indicated here.

4235

Q. That is, the first column of figures which says 1901 to 1902, covers shipments made by your concern to those respective customers, from August 1st, 1901 to August 1st, 1902? A. Yes, sir.

Q. And the second column which says 1902 to 1903 covers shipments from August 1st, 1902 to August 1st, 1903? A. Yes, sir.

Q. And the third column which says 1903 to 1904, covers shipments from August 1st, 1903, to August 1st, 1904? A. Yes, sir.

4236

Q. And the fourth column which says 1904 to 1905, covers shipments from August 1st, 1904 to August 1st, 1905? A. Yes, sir.

Mr. Merritt:

I will offer this and ask to have it written into the record; with the right of either party to refer to it, the same as the former list, and I do not offer the last column which says 1905 to 1906; but would like to state that it is

4237 available for the counsel for the defense if they care to offer it.

AUG. TO AUG.
NEW YORK, N. Y.
Record of Sales.

	1901-2	1902-3	1903-04
Wechsler, Laufer & Co.	33244.67	18823.16	24056.28
Wm. P. Montague Co.	46828.18	33013.08	34286.74
J. T. Asch & Sons.	2918.29	4217.63	5884.30
Denzer, Goodhart & S.	9025.57	7188.18	13398.30
Sol Ducker & Co.	3345.50	1903.	12.
4238 Eichhold & Miller	5691.92	3342.50	5564.76
Freeman Bros.	4525.14	4959.67	5589.78
J. R. Gilleaudeau	1669.56	295.50	
G. W. Leach	4684.44	495.94	2478.23
Chas. Levy's Sons	1366.	72.	193.50
Phillipson & Loewus	276.50	317.50	108.
Phillips, Anderson & Co.	1819.01	40.50	
L. Rothenberg	5803.72		
Sullivan & Dunn	981.80	173.	
J. S. Shields & Co.	2939.52	75.	3.
Torrens, Van Daell Co.	724.01	378.	
4239 J. G. Worthley & Son	5466.46	3020.01	665.
Walhizer & Dreyer	**46.25**		
L. Jacobsohn	91.50		234.49
Louis Borchard	823.53		
J. Rhonheimer & Co.	846.50		
Lustig Bros.	162.		
Bill & Caldwell	787.11	61.25	
J. C. Hershman	72.		
	134,139.18	78,375.92	92,474.58

4240 N. Y. STATE.

Seiter & Seiter	121.50		36.
M. C. Dellind	519.		
N. J. Thompson & Co.	36.		
J. R. Clark Co.	766.79	27.75	
J. Taylor & Sons	1120.50	157.	
Phelps, Raby Co.	1953.88		2639.76
	4517.67	185.25	2639.76

ARKANSAS.				
Falk Ottenheimer Co.	2322.17	1712.50	3541.	**4241**
CALIFORNIA.				
Triest & Co.	89051.54	77767.56	67594.62	
C. H. Meyer & Bro.	5075.62	372.		
W. Fleisher	1082.56	432.		
L. Klein & Co.	3286.50	2723.01		
ILLINOIS.				
Sweet Dempster & Co.	1829.	612.		
Longley Low & Alexander	10434.43	112.50	13.98	**4242**
	12263.43	724.50		
MAINE.				
B. Greenough & Co.	2332.83	528.	716.63	
MARYLAND.				
W. E. Middlekauff	17273.09	6663.46	9456.51	
Adelsdorf & Bobbitt	1346.75		1116.	
Baltimore Bargain H.	2679.35	4644.53	3307.12	
Joyner Witz & Co.	426.50	1039.50	619.50	**4243**
G. S. Howser & Co.	180.	2777.25	1683.50	
	21905.69	15124.74	16182.63	
MASSACHUSETTS.				
Delano & Wheeler	15410.80	5872.36	8144.99	
Moore, Smith & Co.	10749.77	3003.13	1297.44	
Raymond Syndicate	1430.33	559.75		
Spaulding & Co.	4339.63	644.38	36.	
	31930.53	10689.62	9478.41	**4244**
MICHIGAN.				
H. A. Newland Co.	452.25	3201.13	2582.	
John Gleason				
MISSOURI.				
Gauss, Langenberg Hat Co.	1429.87	100.13		
Boogher, Force Goodbar Co.	1506.	378.		

4245	White, Branch McConkin	2022.38	3389.	2775.26
	Johnson, Woodbury Co.	370.		
		5328.25	3867.13	

NEBRASKA.

	Gate City Hat Co.	1921.50	1245.	

OHIO.

4246	Mendel, Berman & Co.	1024.50	1756.25	1878.
	Gotherman & Gibson	1066.75		
	Brown & Co.	5614.63	3093.66	4105.75
	J. B. Finn & Co.	13.50		
	Henderson Ames Co.	1731.81	532.27	823.74
	Mabley & Carew Co.	1477.50	237.	324.
	Klare & Buvinger	1296.	1100.	1359.
	The M. C. Lilley Co.	1530.50	1442.75	1769.88
	E. B. Robbins & Co.	3112.83	2295.	3125.25
4247		16868.02	10456.93	13385.62

PENNSYLVANIA.

	Eli Keen's Sons	24494.64	11872.67	2596.51
	J. J. Seeds & Co.	9473.84	1091.01	495.
	John McCardle	4891.95	5278.65	4855.39
	Kark & London	274.63		
	Curley, Heilner & Co.	1002.25		
	Geo. B. Wells	6681.91	5004.14	4418.03
	T. Rickert & Co.	856.75	1665.88	1165.50
	Wiernik, Edelstein & Co.	5548.25	1714.72	54.
4248	Alex Sloan Jr. & Co.	432.84	102.96	847.30
	L. J. Selliez	1004.64	418.50	1090.50
	Oglevee, Welsh & Co.	2883.88	858.	
	R. G. Gamble	457.88		
	W. J. Moreland	238.50	261.	
	C. H. Wieand & Co.	1829.60		
		60071.56	28267.53	15522.23

RHODE ISLAND.			
Fidler Bros.	1093.	700.88	6.
Standard Hat Co.	837.	1.75	128.
	1930.	702.63	134.
VIRGINIA.			
T. D. Stokes & Co.	6872.01	3422.25	
Hect. Hershler Co.	144.		144.
	7016.01		
WISCONSIN.			
G. H. Heinemann & Co.	197.25	1062.75	
CONNECTICUT.			
Empire Hat Co.	8471.01	1196.25	
John A. Moran	153.	191.25	162.
	8624.01	1387.50	
NEW JERSEY.			
E. R. Wessells	360.	278.50	
MARYLAND, ADDITIONAL.			
G. B. Carlton	324.50		

4249

4250

4251

Q. I ask you, Mr. Loewe, when you take your inventory? A. December 31st.

Q. In each year? A. Yes.

Q. What is an inventory, and what do you do to take it? A. We take stock; that is, account of all the goods and everything that we have on hand.

Mr. Beach:

I asume that our objection may be applicable, and that we may preserve our objection and exception to that record also.

4252

The Court:

Yes.

The Witness:

In order to find out the condition of our business at the end of the year.

Q. That is to find out whether you have made a profit for a loss, and how much? A. Yes, sir.

4253 Q. Now what do you do to take that inventory? A. We take account of all the stock and the goods that we have on hand at that time, and we compare it with what we had on hand the previous year; and what difference there is is added to what we purchased during the year, or deducted, whatever the case may be.

Q. It is a summary of all your assets and liabilities at that time? A. Yes, sir.

Q. And in order to arrive at it you have to take the stock you have on hand— A. Yes, sir.

Q. —in consideration with the stock you had on hand
4254 twelve months ago, to see whether you had made a profit or a loss? A. Yes, sir.

Q. Have you always taken your inventory on the 31st of December? A. Yes, sir.

Q. For how many years? A. For a great many years.

Q. Have you ever taken inventory at any other date? A. Yes, we did.

Q. When was that? A. I don't remember now, but a number of years ago—in 1896 or '7, somewhere around there.

Q. 1896 or '7? A. Yes, sir.

Q. Have you ever taken inventory at any other period
4255 of the year since 1896 or '7? A. Well, we haven't since 1898; I am sure of that.

Q. Did you take an inventory in 1902, at the time of the strike? A. No, sir.

Q. Have you any way of arriving at the exact condition of your business on the 24th day of July, 1902? A. I have not.

Q. Now I show you certain other papers, and ask you what they are? A. These are memorandums made or copies of our year's transactions as a manufacturing concern, giving the summary of the different accounts as they apply to the
4256 manufactory, and gives the result—profit and loss for that year.

Q. And these are figures which you have compiled from your books? A. Yes, sir.

Q. Give me the gross amount of your sales for the year ending December 31st, 1898? A. $347,101.80.

Q. Give me the gross amount of your sales for the year ending December 31st, 1899? A. $384,671.27.

Q. Give the gross amount of sales for the year ending December 31st, 1900? A. $432,848.45.

Mr. Beach:

We make the same objection to the gross figures for the calendar years for the reasons already stated. 4257
The Court:

It may be received.

Mr. Mulholland:

Exception.

Q. Give me the gross amount of business for the year ending December 31st, 1901? A. $464,353.36.

Q. Give me the gross amount of business for the year ending December 31st, 1902? A. $305,617.41.

Q. Give me the gross amount of business for the year ending December 31st, 1903. 4258
Mr. Davenport:

You mean sales?

Q. The gross amount of sales? A. $294,289.64.

Q. Then give me the gross amount of business or sales for the year ending December 31st, 1904? A. $268,165.08.

Mr. Merritt:

I would like to add here that I have figures here compiled for the years 1898 and 1899, covering the various items, but I will begin with the year 1900, and if the defendants wish the figures for the earlier years they are available to them and may be offered in evidence, without objection.

Q. Now taking up the year ending December 31st, 1900, Mr. Loewe, will you tell me the net amount of your sales? A. The net income from sales for the year ending December 31st, 1900, was $377,157.90. 4259

Q. And what is the difference between the net income from sales and the gross income from sales? A. We allow discounts to the customers.

Q. And this net income from sales is after deducting that discount from the gross income? A. Discounts; yes, sir.

Q. Well, you'd better give me the discounts; I will have these figures put on record? A. Discount allowed $55,690.55. 4260

Mr. Mulholland:

What year was that?

Witness:

1900.

Q. What is the next item?

The Court:

(Interrupting.) You began in 1898, didn't you with the gross?

4261 Mr. Merritt:

Yes.

The Court:

Why did you begin in 1900 with the net?

Mr. Merritt:

I thought I wouldn't take time to analyze all these figures for 1898 and '9; but if they have any bearing they are available for the other counsel to use if they wish to.

Q. Now what is the next item of your account there called "Sundry and Additional Items of Income"? A. Yes, there is $1367.07.

4262 Q. What is that? A. It is different sources of income.

Q. Well, what is the total net income for that year? A. $378,524.97.

Q. Now what was the gross cost of new material? A. $199,962.45.

Q. And what were the discounts which you received on those purchases of new material? A. $11,238.55.

Q. And what was the net cost of the materials? A. $188,723.90.

4263 Q. What was the amount of materials you had on hand the year previous to taking inventory? A. $30,238.85.

Q. What is the gross amount of materials? A. $218,-962.75.

Q. And what was the amount of materials you had on hand at the time of taking this inventory, December 31st, 1900? A. $39,608.51.

Q. What was the net cost of materials used by your firm in the manufacture of hats in the year 1900? A. $179,-354.24.

Q. And what was the net cost of labor for the year? A. $135,468.26.

1264 Q. And what was the cost for items of expense, such as transportation, fuel, insurance, taxes, selling expenses, etc.? A. $26,473.06.

Q. Did you make any charge for depreciation? A. I did.

Q. Will you explain to the jury what that is? A. It is commonly called the wear and tear on machinery and building, etc. We charge off a certain percentage each year, and also whatever repairs we make to machinery and building, and so on; or tools.

Q. You figure in the running down of your plant as an expense which should be charged off each year? A. Yes, sir. 4265

Q. Because it has to be replaced some time? A. Yes, sir.

Q. What did you charge for depreciation? A. $8346.19.

Q. And did you have any bad accounts? A. Yes, sir.

Q. What amount? A. $3,918.87.

Q. Now give me the total cost of manufacturing? A. $353,560.62.

Q. Then give me the net profit for the year ending December 31st, 1900? A. $24,964.35. 4266

Mr. Merritt:

I will have the stenographer write into the record the statements given for the year ending December 31st, 1900, the year ending December 31st, 1901, the year ending December 31st, 1902, the year ending December 31st, 1903, and the year ending December 31st, 1904.

Mr. Beach:

To these profit and loss accounts for the years respectively we make the same objection as to other financial statements.

The Court:

Yes; but no objection because the items that make them up are not read? 4267

Mr. Mulholland:

No. Save our exception.

Q. Now, Mr. Loewe, what net profit did you make for the year ending December 31st, 1901? A. $27,749.66.

Q. And what net profit or loss did you make for the year ending December 31st, 1902? A. A loss of $17,591.61.

Q. And what was the result of the year ending December 31st, 1903? A. A net loss of $15,738.66.

Q. What was the result for the year ending December 31st, 1904? A. A net loss of $8,113.54. 4268

Mr. Merritt:

And I would say, as I have said before, that I have here a tabulated statement for the years 1905, 1906, 1907 and 1908, and they are all available for counsel for the defense to offer in this case if they care to. We will make no objection to their offer. We do not offer anything beyond the year 1904.

4269 STATEMENT FOR YEAR ENDING DECEMBER 31st, 1898.

Gross income from sales for the year		$347,101.80
Discounts allowed to customers		42,225.36
Net Income from Sales		$304,876.44
Sundry and additional items of income		1,777.79
Total Net Income		$306,654.23
4270 Gross cost of new materials	$161,993.69	
Discounts received on materials	8,086.35	
Net cost of Materials	$153,907.34	
Plus cost of Stock & materials on hand Dec. 31, 1897, according to inventory	25,141.31	
	$179,048.65	
4271 Less cost of Stock and materials on hand as per Inventory Dec. 31, 1898.	30,223.58	
Net cost of materials used for the hats sold in 1898	$148,825.07	
Cost of Labor	117,758.59	
Expenses (Transportation, fuel, insurance, interest, taxes, selling expenses, etc.)	16,852.80	
4272 Depreciation	6,389.37	
Total expense of Manufacture		289,825.83
Total Net Profits		$ 16,828.40

STATEMENT FOR YEAR ENDING DECEMBER 31, 1899.

Gross Income from Sales for the year		$384,671.27
Discounts allowed to Customers		50,367.90
Net Income from Sales		$334,303.37

Sundry and additional items of income.....		998.72	4273
Total Net Income		$335,302.09	
Gross Cost of new materials	$182,795.38		
Discounts received on materials	9,805.78		
Net cost of Materials	$172,989.60		
Plus cost of Stock & materials on hand Dec. 31, 1898, according to inventory	30,223.58		4274
	$203,213.18		
Less cost of Stock and materials on hand as per Inventory Dec. 31, 1899.	30,238.85		
Net cost of materials used for the hats sold in 1899.....	$172,974.33		
Cost of labor	123,014.49		4275
Expenses (Transportation, fuel, insurance, interest, taxes, selling expenses, etc.)	20,315.99		
Depreciation	5,937.07		
Lost Accounts	1,995.12		
Total expense of manufacture...		324,237.00	
Total Net Profits		$ 11,065.09	

STATEMENT FOR YEAR ENDING DECEMBER 31st, 1900. 4276

Gross Income from Sales for the year.....		$432,848.45
Discounts allowed to Customers		55,690.55
Net Income from Sales		$377,157.90
Sundry and additional items of Income.....		1,367.07
Total Net Income		$378,524.97
Gross Cost of new materials	$199,962.45	

4277	Discounts received on materials	11,238.55	
	Net Cost of Materials	$188,723.90	
	Plus cost of Stock materials on hand Dec. 31, 1899, according to Inventory	30,238.85	
4278		$218,962.75	
	Less Cost of Stock and Materials on hand as per Inventory Dec. 31, 1900.	39,608.51	
	Net Cost of Materials used for the hats sold in 1900.....	$179,354.24	
	Cost of Labor	135,468.26	
	Expenses (Transportation, fuel, insurance, interest, taxes, selling		
4279	expenses, etc.)	26,473.06	
	Depreciation	8,346.19	
	Lost Accounts	3,918.87	
	Total expense of manufacture..		353,560.62
	Total Net Profit		$ 24,964.35

STATEMENTS FOR YEAR ENDING DECEMBER 31, 1901.

4280	Gross Income from Sales for the year.....		$464,353.36
	Discounts allowed to Customers		58,049.25
	Net Income from Sales		$406,304.11
	Sundry and additional Items of Income.....		919.31
	Total Net Income		$407,223.42
	Gross Cost of new Materials	$211,169.91	
	Discounts received		

on Materials ..	15,217.63		4281
Net cost of Materials	$195,952.28		
Plus cost of stock and Materials on hand Dec. 31, 1900	39,608.51		
	$235,560.79		
Less Cost of Stock and Materials on hand as per inventory Dec. 31, 1901	43,017.04		4282
Net cost of Materials used for the hats sold in 1901...		$192,543.75	
Cost of Labor		146,219.99	
Expenses (transportation, fuel, Interest, insurance, taxes, selling expenses, etc.		29,814.92	
Depreciation		10,186.80	
Lost Accounts		708.30	4283
Total expense of Manufacture			379,473.76
Total Net Profit			$ 27,749.66

STATEMENT OF YEAR ENDING DECEMBER 31st, 1902.

Gross Income from Sales for the year.....		$305,617.41
Discounts allowed to Customers		37,006.05
Net Income from Sales		$268,611.36
Sundry and additional Items of Income....		1,336.30 4284
Total Net Income		$269,947.66
Gross cost of new materials	$152,475.47	
Discounts received on materials.	8,982.35	
Net Cost of Materials	$143,493.12	

4285	Plus cost of stock and materials on hand Dec. 31, 1901	43,017.04	
		$186,510.16	
	Less cost of stock and materials on hand as per inventory Dec. 31,		
4286	1902	37,255.56	
	Net cost of materials used for the hats sold in 1902.....	$149,254.60	
	Cost of Labor	110,113.72	
	Expenses, (Transportation, fuel, insurance, interest, taxes, selling expenses, etc.)	23,752.60	
	Depreciation	4,181.39	
	Lost Accounts	236.96	
	Total expense of manufacture		287,539.27
4287	Loss		$ 17,591.61

STATEMENT FOR YEAR ENDING DECEMBER 31st, 1903.

Gross Income from Sales for the year.....		$294,289.64
Discounts allowed to Customers.....		37,176.33
Net Income from Sales		$257,113.31
Sundry and additional items of income.....		319.55
Total Net Income		$257,432.86
4288 Gross Cost of new Materials	$144,237.77	
Discounts received on Materials	7,381.05	
Net cost of Materials $136,856.72		
Plus cost of stock and materials on hand Dec. 31,		

1902, according to inventory ...	37,255.56		4289
	$174,112.28		
Less cost of stock and materials on hand as per Inventory Dec. 31, 1903	42,249.05		
Net cost of materials used for the hats sold in 1903.....		$131,863.23	4290
Cost of Labor		108,895.57	
Expenses, (Transportation, fuel, Insurance, interest, taxes, selling expenses, etc.)		28,567.72	
Depreciation		3,845.00	
Lost accounts—none			
Total expense of manufacture			273,171.52
Loss			$ 15,738.66

4291

STATEMENT FOR YEAR ENDING DEC. 31, 1904.

Gross Income from Sales for the year.....		$268,165.08
Discounts allowed to customers.....		34,164.43
Net Income from Sales		$234,000.65
Sundry and additional items of Income.....		170.37
Total Net Income		$234,171.02
Gross Cost of new materials	$123,689.17	4292
Discounts received on materials	5,175.72	
Net cost of Materials	$118,513.45	
Plus cost of Stock & materials on hand Dec. 31, 1903, according		

4293 to inventory.... 42,249.05

$160,762.50

Less cost of stock and materials on hand as per inventory Dec. 31, 1904 . . .. 41,230.96

Net cost of materials used for the hats sold in 1904..... $119,531.54

4294 Cost of labor 95,765.80

Expenses, (Transportation, fuel, insurance, interest, taxes, selling, expenses, etc.) 23,142.22

Depreciation 3,845.00

Lost accounts—none

Total expense of Manufacture 242,284.56

Loss .... $ 8,113.54

4295 Q. Have you a statement, Mr. Loewe, showing the amount of each grade of hats sold to Triest & Co. for the respective years 1900 to 1904 inclusive? A. Yes, sir.

Mr. Merritt:

I have no desire to read that to the Jury, but I don't know but it ought to be put upon the record for counsel for the defense may want to analyze the loss.

The Court:

It won't take you long to read the summary. Let me see it. (Mr. Merritt hands same to the Court.) You can act at your pleasure about that.

4296 Q. Can you state whether or not these are the correct figures? A. Yes, those are the figures I had prepared for the purpose, to show—from the sales ledger.

		1903		
"$8.00	hats	174		dozen
9.00	"	1688		"
10.00	"	485	4/12	"
12.00	"	2315	1/12	"
13.50	"	1591	1/12	"
15.00	"	180	5/12	"
16.50	"	80	8/12	doz.

18.00	"	50	3/12	doz.	4297
$8.00	hats	240	6/12	dozen	
9.00	"	3201	11/12	"	
10.00	"	215	6/12	"	
12.00	"	1713	4/12	"	
13.50	"	1083		"	
15.00	"	25	11/12	"	
16.50	"	37		"	
18.00	"	6	2/12	"	
		1901			
8.00	"	242		dozen.	
9.00	"	3366	9/12	"	4298
10.00	"	167	7/12	"	
12.00	"	1714	3/12	"	
13.50	"	1606	10/12	"	
15.00	"	43	5/12	"	
16.50	"	52	1/12	"	
18.00	"	21	9/12	"	

Q. Those figures, Mr. Loewe, refer to the price which you charged the jobber, do they not? A. Yes, sir.

Q. I have some figures here and I will ask you what they represent? A. These figures show the rate of percentage of materials, labor, expense, depreciation, loss account and profit. 4299

Q. For what years? A. For the years of 1898, 1899, 1900, 1901, 1902 and 1903.

Q. Will you explain, Mr. Loewe, what this means, taking the year 1898, under the head of materials, you have 48.5%; what does that mean? A. Why, I take the average priced hat we made for that year, and I take the amount of material that we used for the year; I divided the amount of material for the year by the amount of business—the amount of sales.

Q. Then this 48.5% means that in the entire cost of every hat 48.5% was material? A. Yes, 48.5% of the amount of sales was material. 4300

The Court:

Was cost of material? A. Yes, the cost of material.

Q. And the entire cost of manufacture on the average; this means that the cost of each hat was 48.5% material? A. Yes, the average cost.

4301 Q. Average cost. Now it says labor 38.4%; that is you mean that in the entire cost of the manufacture of your hats 38.4% was labor cost? A. Yes, sir.

Q. Now, under the head of expense you have 5.5%; what do you mean by "expense"? A. Expense includes the fixed charges in the first place.

Q. What do you mean by fixed charges? A. Why, the expense of keeping the factory running; it also includes overhead charges; that is the foreman and superintendents and other help around the factory that are not

4302 chargeable to the making of a hat. That is they are not working on the hats, but it requires that kind of help in order to keep the factory running—to keep it in running condition.

Q. Then, as I understand it, the fixed charges are those expenses which, generally speaking, remain the same, whether you are manufacturing a large product or a small product? A. Yes, sir.

Q. Now under the head of expense you include include insurance? A. Yes, sir.

Q. Interest? A. Yes, sir.

4303 Q. Taxes? A. Yes, sir—fuel.

Q. And as to those expenses generally they remain the same whether your product is large or small? A. Yes, sir.

Q. I will go on under the head of overhead charges—

Q. What are your overhead charges, are they in addition to those expenses you have a statement of? A. The salary of the superintendent, the salary of the foreman.

Q. How about the expense of the New York of-

4304 fice? A. Yes; why, the salary of the foremen, members of the firm who participated in the—or act as superintendent, and so on.

Q. Running an office in New York? A. Running an office in New York is included because you stated that in the year 1898, that you read over; it gives it that.

Q. Then as I understand your 1898 expense made up 5.5% of your total cost of manufacture? A. Yes, sir.

Q. And in the last item I see profit 5.5%; does that mean that your total profit was 5.5% of your gross sales? A. Yes, sir.

Mr. Merritt:

Then I think I shall read these figures. 4305

Mr. Beach:

Net sales, isn't it?

Q. Is it your net sales, or gross sales, Mr. Loewe? A. Net sales.

Mr. Merritt:

(Here follows statement on next page.)

RATE OF PERCENTAGE.

4306

	Materials	Labor	Expense	Depreciation	Lost a/c	Profit
1898	48.5%	38.4%	5.5%	2. %		5.5 %
1899	51.5%	36.8%	5.4%	1.77%	0.59%	3.94%
1900	47.6%	35.7%	6.9%	2.2 %	1. %	6.3 %
1901	47.2%	36. %	7.3%	2.5 %		6.8 %
1902	55.2%	40.8%	8.8%	1.5 %		Loss 6.6 %
1903	50.8%	42.3%	11.1%	1.4 %		5.6 %

Mr. Merritt:

And I will add to that 1904. Will you take this (to Stenographer): 4307

	Materials	Labor	Expense	Depreciation	Lost A/c
1904	51%	40.8%	9.88%	1.6%	3%—

Witnest:

No. No loss account.

Mr. Merritt:

The profit isn't figured.

Witness:

That is a loss.

Mr. Merritt:

1904, the loss 3.2%. 4308

Q. Now, Mr. Loewe, will you state if you prepared any figures showing the number of dozen hats manufactured each year? A. Yes, sir.

Q. Can you state whether that is the schedule? A. Yes, sir.

Mr. Merritt:

I have here a statement of the number of dozens manufactured each year from 1899 to 1904.

4309 Mr. Merritt:

Including 1904. I would like to have that wirtten into the record, and I don't care myself whether it is read to the jury at this time.

Mr. Mulholland:

Subject to our general exception, as to the period of time covered. I think there will be no other objection to it.

Mr. Merritt:

You mean the fact that it goes beyond the date of suit?

4310 Mr. Mulholland:

Yes.

NUMBER DOZEN HATS MANUFACTURED BY D. E. LOEWE & CO.

	1899	1900	1901	1902	1903	1904
January	2085	3063	3314	2936	1947	1332
February	2908	3387	4032	4097	2790	2239
March	3809	3183	3951	2561	2605	1548
April	2602	2383	2849	2018	1978	1032
4311 May	1861	2745	2478	2202	1698	1404
June	3006	3302	3497	1977	2131	2601
July	2628	1817	2615	2449	3138	1792
August	3745	3781	4286	1076	3378	2564
September	3770	4576	4133	2078	3270	3329
October	3028	5076	4504	2698	3080	3040
November	3200	3874	3095	2286	1709	2011
December	2621	2197	3718	2447	1437	1594

Q. Mr. Loewe, did you make any effort to secure any new business in the years 1902 and '03 after the strike? A. Yes, sir.

4312 Q. Well, now, tell the jury just what efforts you did make? A. Why, we sent our salesman out to visit as many customers as he could that he had not visited before, and in that way get some new business, and especially in territories where we expected the labor union had not been agitating.

Mr. Mulholland:

Q. Did you attempt to get any business in Canada? A. I was just going to say; we thought that in Canada we might be able to reach some customer without being

interfered with, and we did not as a rule sell to retail trade. We got our bookkeeper to form a company with a man that we knew—a hat man, to sell the trade in Canada. 4313

Q. What was the name of this company? A. Sanford & Loomis.

Q. Now give me the amount of new business which you secured? A. In New York City we sold B. H. Kaufman, who had a chain of retail stores whom we never sold before.

Q. When did you sell him? A. In January, 1903.

Q. How much did you sell him in that year? A. $10,472.75. 4314

Q. Can you tell me what grade of hat that was? A. $13.50 hat. There were a few $12 hats but most of them $13.50 hats.

Q. Is that the same grade of hat which Triest & Co. discontinued buying? A. Yes, sir.

Q. Now give me the other new customers? A. The Western Hat Co., New York City, $356.25. O. F. Dailey of New York City, $3,148.36. The Excelsior Hat Company, New York City, $2423.25; The Boyce Hat Co. of New York City, $745.50; H. Rothschild, Philadelphia, Penna., $112.50; Gimbel Bros., Philadelphia, Penna., $987.00; A. L. Bassett & Co., Cleveland, Ohio, $279.75; Thomas Lamb, Pana, Ohio, $144.00; G. H. Gates & Co., Detroit, Mich., $940.00; Sanford & Loomis that I just mentioned before, $8654.26; Salisbury, $148.50; Wagner, Fisk & Shipp Hat Co., Memphis, Tenn., $1803; Coe, Ray, Creeham & Co., Boston, Mass., $336.75; Beasley, Couch & Co., Lynchburg, Va., $1140.10; Mendel, Weinstock & Co., Louisville, Ky., $364.00; Hendrickson, Leffler & Co., Indianapolis, Ind., $144; Mr. Gimbel & Son, Chicago, Ill., $1240.50; A. M. Rothschild & Co., Chicago, Ill., $180.00; the Famous, St. Louis, Mo., $1428.75; the May Co., Cleveland, Ohio, $499.50; Anderson, Macbeth Co., Toronto, Canada, $3102.00; the Waldron, Druin Co., Montreal, Canada, $230.00; D. Magee Sons, St. Johns, N. B., $140.25; Middleton Mfg Co., Milwaukee, Wis., $450.00; a total of $40,070.96. 4315 4316

Q. Can you tell me the last order in 1902 or '03 that you received from Louis Kline & Co.; the date of it? A. I have a memorandum somewhere.

4317 Q. Is this what you want (handing witness paper)? A. Yes. The last order was dated January—received January 27th, 1903, and shipped February 27th the same year, 1903.

Q. Can you give me the last order which you received from the Gate City Hat Co.? Mr. Marsh testified that that would fix the date when he was visited by the union people? A. I don't know as I have it here.

Q. Where can you get that? A. It is in the sales ledger.

4318 Q. Sales ledger? A. In the order book. I haven't it here.

Q. Well, we will have to see that later? A. I think it was Mr. Reed's trip.

Q. Now, Mr. Loewe, I want to ask you a few questions about some of these customers; how about the concern of Dolling, Phelps and Raby, did they at one time have a different name? A. Yes, sir.

Q. That concern is in New York State? A. Yes, sir.

4319 Q. Now I find here on this list of customers the concern of Delling, Phelps and Raby, a concern called M. C. Delling, and a concern called the Phelps, Raby Hat Co.? A. Yes, sir.

Q. Will you explain their relation, if they have any, to each other? A. Why, they changed the firm name; they changed membership and the business was conducted under those different firm names.

Q. All of those names included some of the members of the original firm? A. Yes, sir.

4320 Q. Now, about the concern of Heishman & Goodman, and Goodman & Jones? A. It is here Heishman; that is an error. It should be Hershman. That should be "r" instead of "i."

Mr. Beach:

You say this firm of Delling & Raby split up. Can you tell us when?

Mr. Merritt:

Yes, I can go into that.

Q. Was Delling, Phelps & Raby the first concern? A. I think so.

Q. And when did it change? A. Why, I couldn't tell now. It shows on the books.

Q. Can you tell by examining this account? A. Yes, sir. 4321

The Witness:

1901.

Q. Now, how about the concern of Hershman and Goodman, and Goodman & Jones? A. They are practically the same concern; change of firm name. One partner went out and they changed the firm name.

Q. One concern was the successor of the other? A. Yes.

Q. How about the concern of Adelsdorf, Bobbitt & Jones, and the concern of Adelsdorf and Bobbitt? A. 4322 This is practically the same concern. One succeeded the other.

Q. How about the concern of the North, Fisk Hat Co. in Massachusetts, and the concern of John H. North & Co.? A. John H. North & Co., I think succeeded North, Fisk & Co.

Q. I think it has already been testified that W. E. Middlekauff was succeeded by the Selmore Hat Manufacturing Co.? A. Yes, sir.

Q. Mr. Loewe, will you state whether or not the amount of your shipments during the first seven months 4323 of 1902 were less or more than your shipments in the year 1901, for the same period? A. They were less.

Q. They were less? A. Yes, sir.

Q. Does it appear on your books how much less? A. Yes, sir.

Q. That can be ascertained from this statement of customers? A. Yes, sir.

Q. What were the conditions of trade at the time of the strike in July, 1902? A. The conditions were very good; that is, we had more orders on hand at that time than we had had in previous years the same time; and 4324 we looked forward to and were prepared to do a large business than ever during the fall season.

Q. Mr. Loewe, it has been testified here that some of your men withdrew in June, 1901; I will ask whether or not you know if those men returned or if they made application to return? A. Some of them returned and nearly all of them made application to return.

4325 Q. Did you have some conversation with those men just as they were leaving? A. Just before they were leaving, yes.

Q. Who were the men? A. I think Ed. Donnelly, Emil Flosky and O'Haire, I think John O'Haire or something.

Q. Did this conversation take place in the presence of all three of those men? A. Yes, sir; they came down to my office to see me.

Q. They asked to see you? A. Yes.

4326 Q. About what time was this of the year? A. This was in June.

Q. In June, 1901? A. Yes, sir.

Q. And did their conversation relate to their reasons for leaving? A. Yes, sir.

Q. Now give me the conversation, Mr. Loewe? A. These gentlemen came down to my office and stated that they wanted to see me on some important business. I told them, "very well, be seated." Then they informed me that they had been notified by the Union that they must leave our employ with others. They stated that they considered it their duty to let me know; also that

4327 they did not like to be called out, but that the conditions were such that if they wanted to remain members of the union they would have to comply with the request of the officers; and they also stated that they like the worked and had been employed there for a great many years, and, as Mr. Donnelly stated, "I learned my trade here, and I would like to remain here, but we shall have to go." Now I thanked them for letting me know; but under the circumstances they better obey the mandate of the union. There seemed to be hesitancy on their part to depart.

4328 Q. Keep your voice up? A. So I asked them "is there anything that I can do for you; why this is just why we came down to see you." I says "what can I do, and I don't see that I can do anything for you unless, if you think after you have been placed in other factories and don't like it and would wish to come back at a certain time you want me to keep a place open for you for a certain time I shall be pleased to do it." They said "That is all we want, we thank you very much," and they withdrew.

Q. Did they state why they were called out? A. 4329
Why they wanted them to go to another factory to work.

Q. A union factory? A. Union factory, yes, sir.

Q. That is, they needed men in the union factories? A. That is what they stated, that they were called out by the officers, that they must leave my employ and go to another factory; they were requested to go to John W. Green's.

Q. Did these three men return? A. I don't think that O'Haire returned, but the other two returned, yes, sir.

Q. When did they return? A. Oh, within the 4330
course of a month or to, I think somewhere.

Mr. Merritt:

Your Honor, I am through with the witness, unless I find that I have omitted something inadvertently. Oh, we were going to put in the cancellations.

The Court:

Yes, and attach the amounts.

Mr. Merritt:

I presume we can do that at a later time.

The Court:

Yes.

4331

CROSS EXAMINATION

By Mr. Mulholland:

Q. Mr. Loewe, I want to inquire right where you left off, in reference to those three men who you say quit your employ in 1901. You knew at that time, did you not, that the United Hatters had contracts for union label and union conditions in a number of shops in the City of Danbury? A. I understood so, yes.

Q. And you knew that part of that contract pro- 4332
vided that the organization would furnish them with union hatters as they required them? A. No.

Q. Didn't you know that? A. No.

Q. Have you ever heard that before—I ask you this question? A. Yes; if you will let me tell it, I will tell it to you.

Q. No, I am just asking that question; if you knew it prior to the time that I just asked you that question? A. That question came up; it never was satisfactorily decided.

4333 Q. When did it come up? A. During the time that we had union factory.

Q. That is when you had a union factory? A. Yes, sir; and I was Secretary of the Manufacturer's Association and member of the Conference Committee.

Q. Do you know whether or not the contracts made by the United Hatters, with the various union manufacturing companies at that time had such a clause written into the contract? A. No, sir; I don't.

Q. I am asking of your own knowledge, of course? A. I don't know.

4334 Q. Mr. Loewe, do you know a man named James S. Whitney? A. I can't recall him.

Q. Did you ever hear of him? A. I can't recall it.

Q. You can't now recall that you ever heard of that man? A. No, I can't.

Q. Do you know a man by the name of William J. Weiseit?

Mr. Merritt:

Is he a defendant?

Q. Did you ever hear of that man? A. Weiseit?

4335 Q. Yes, sir? A. Those people—that name sounds familiar.

Q. Do you recall of ever having heard of either of these two men prior to August, 1902? A. I don't remember.

Q. Did you ever hear of Max Singerwald? A. No.

Q. Never have heard of him? A. No, sir.

Q. Are you acquainted with a man named Owen E. Riley? A. I don't know.

The Court:

How is that material?

4336 Mr. Mulholland:

Just a moment, if the court please, I expect to make it material in the next question.

Q. You say you had never heard of these men? A. No, sir.

Q. Why Mr. Loewe, don't you know that these men are defendants in this suit? A. Yes, I know that they are defendants; but you said prior to August.

Q. No, I asked if you ever heard of them? A. Oh, yes; those names are familiar enough.

Q. Well, I will now inquire about this man James S. Whitney. Did you ever hear of him prior to the time you commenced this suit? A. No, I didn't. 4337

Q. Did you know where he lived? A. I didn't at that time, of course.

Q. Did you ever hear of his having done anything against the products of your factory? A. No, sir.

Q. Did you have any knowledge of the man whatsoever? A. I didn't.

Q. Prior to the commencement of this suit, did you ever hear of Max Singerwald? A. No, sir.

Q. Did you know where he lived? A. No, sir. 4338

Q. Had you ever heard prior to that time of his having taken any action whatsoever against the products of your firm? A. No, sir.

Q. You knew nothing of him whatsoever? A. No, sir.

Q. Did you know anything about this man as late as January, 1903? A. January, 1903?

Q. Yes, sir? A. Why, yes.

Q. What did you know about him? A. January 1st, 1903?

Q. Yes? A. No. 4339

Q. You knew nothing of him at that time? A. No.

Q. I will ask you about John Spendlove, did you know him prior to January 1st, 1903? A. I didn't.

Q. Did you ever hear anything about him? A. I don't think so.

Q. In connection with your affairs. Did you know of his ever having done anything in the way of antagonism to you or your goods? A. No, sir.

Q. Or the products of your factory? That is as late as January 1st, 1903? A. No, sir.

Q. I will ask you about William J. Weiset? A. I may have heard of his name before. 4340

Q. You may have heard of his name before? A. Yes, sir.

Q. Prior to say January, 1903, did you ever know of his having taken any action against you or against the products of your factory? A. No, sir.

Q. Never had heard anything about him at all? A. No, sir.

4341 Q. Did you know where he lived? A. No, sir. Yes, I think I do; I think he belongs to Norwalk.

Q. And do you know where Spendlove lived? A. No, I don't.

Q. Did you know where Singerwald lived? A. No, that only refers to Weiset.

Q. Did you know where James S. Whitney lived? A. No, sir.

Q. Prior to Jnauary 1st, 1903, did you know a man named Owen E. Riley? A. I don't remember.

4342 Q. About that time did you ever have any information of his ever at any time carrying on any line of conduct against you or the product of your factory? A. I don't remember.

Q. Did you know where he lived? A. I don't think so.

Q. Did you know his initials? A. No.

The Court:

Why do you fix the time as the first of January? I don't quite see.

Mr. Mulholland:

4343 Only so as to get the date past the commencement of the suit so there can be no question about it.

Mr. Merritt:

You are before the commencement of the suit.

Mr. Mulholland:

1903?

Mr. Merritt:

Why, it was the latter part of 1903.

Mr. Mulholland:

That is correct. I stand corrected. I thank you for the correction.

4344 Q. Did you know these men in the month of August; any of the men whose names I have mentioned in the month of August, 1903? A. No.

Mr. Merritt:

Why don't you ask him, pardon me for interrupting me, prior to the commencement of the suit?

Q. Well, prior to the commencement of the suit? A. I didn't.

Q. Did you ever hear of them any different than you have testified to in reference to January 1st, 1903? A. No, sir

Q. Did you know a man at the time of the commencement of this suit by the name of Thomas H. Layhe? A. I can't recall. 4345

Q. Did you know at that time of his having done anything antagonistic to you or to the products of your factory? A. I don't think so.

Q. So far as you know you had never heard of him prior to the commencement of this suit? A. So far as I know.

Q. Did you prior to the commencement of this suit know a man by the name of James Kinnane, if that is the way you pronounce it? A. Why that name sounds familiar. 4346

Q. Did you know where he lived? A. No, I couldn't say.

Q. Did you ever hear of anything that he had done against you or against the product of your factory? A. No.

Mr. Davenport:

You mean individually?

Mr. Mulholland:

I think the witness understands my question. If he doesn't I shall be glad to correct it. 4347

Q. Prior to the commencement of this suit did you know a man by the name of Geo. A. Davis? A. That name sounds familiar, but I can't recall now whether I did.

Q. Can you recall where he lived? A. No, I couldn't.

Q. Did you ever hear of any action that he had taken against you or the product of your factory? A. No, sir.

Q. You had no information whatsoever of any connection that Mr. Davis might have with your affairs? A. Not as an individual, no. 4348

Q. Prior to the commencement of this suit did you know a man named Stephen H. Carlin? A. No.

Q. Did you ever hear of him prior to the commencement of this suit? A. I don't think so.

Q. Did you know where he lived? A. I didn't.

Q. Did you ever hear of anything that he had ever done against you or your product? A. Not individually, no.

4349 Q. Well, at all? A. No, not as Carlin.

Q. Never had heard of him at all, had you? A. No, sir.

Q. Did you prior to the commencement know a man by the name of William A. Brennan? A. That sounds familiar.

Q. Where did you know him—when did you know him? A. I think I saw his name in the records of the Hatters' Journal as being a member of the Norwalk Association.

4350 Q. Well, did you ever know of anything that he had done against you or the products of your factory? A. Why, yes.

Q. What did he do? A. Why he attended the meetings; that is what I have in mind.

Q. What meetings did he attend? A. The Conventions of the Hatters; the Journal—I used to get a copy of the Journal and I saw his name.

Q. What convention did he attend? A. That I couldn't tell you know exactly.

Q. You simply have a recollection that you saw his name somewhere, Mr. Loewe? A. That he was an officer of the union.

4351

Q. How about Albert Berg, did you ever hear of him before the commencement of this suit? A. No.

Q. You had no knowledge of anything that he had ever done against you or the product of your plant, had you? A. No, sir.

Q. Knew nothing of him whatsoever? A. No, sir.

Q. Did you know Fenton W. Beers before the commencement of this suit? A. What is his initial?

Q. Fenton W.? A. No.

4352 Q. Did you ever hear of him that you remember? A. No.

Q. Did you know where he lived? A. I don't.

Q. What did you say? A. I say I don't. I don't remember.

Q. Did you ever hear of anything that he had done against you or the products of your plant? A. No, sir.

Q. Prior to the commencement of this suit, did you know a man by the name of John Kane? A. I knew a good many Kanes.

Q. John Kane I refer to? A. I know most of the Kanes in Danbury. 4353

Q. I am referring to the man Kane whom you made a defendant in this suit? A. Of Norwalk?

Q. No, sir? A. Of Bethel?

Q. Yes, sir? A. Yes, sir; I heard of him.

Q. Did you know him? A. I think he lives at that—I have heard of him before, yes, sir.

Q. Where did you hear of him? A. Oh, in Danbury.

Q. Did you ever hear of anything that he had done against you or the product of your factory? A. Only as being a member of the union. 4354

Q. That is what I mean, individually did you ever hear of his doing anything? A. Individually, no.

Q. Did you ever hear of anything he had done as a member of the union? A. No.

Q. Not a thing? A. No.

Q. Prior to the commencement of this suit, Mr. Loewe, did you ever know a man by the name of Owen Murray? A. I think so.

Q. A man seventy-eight years old, wasn't he? A. Yes, sir. 4355

Q. Where did he live? A. Bethel.

Q. Did you ever hear of his doing anything against you or the product of your factory? A. Not as an individual, no.

Q. I mean also as a member of the organization? A. Why, as a member of the organization—why he was a member of the union.

Q. What did he do? A. As a member of the union—the union attacked me.

Q. I asked you what Mr. Murray did, Mr. Loewe, if you know of anything? A. He was a member of that union. 4356

Q. What union? A. Of the Makers' Association.

Q. Where? A. In Bethel.

Q. What did he ever do as a member of the union? A. And formerly in Danbury, I think.

Q. What did he ever do, I asked you? A. Well, I don't know that I can answer that question.

4357 Q. Prior to the commencement of this suit did you know a man named Byron R. Morgan? A. Yes, I knew that he was a member of a union.

Q. Where did he live? A. Morgan lived in Bethel.

Q. A man seventy years old? A. Yes—he wasn't then.

Q. Do you know of anything he ever did individually against you or the product of your factory? A. Not anything except as a member of the union.

Q. Well, as a member of the union, did he ever do anything against you, to your knowledge? A. He was
4358 a member of the union.

Q. Now, Mr. Loewe, I have asked you about several of these men. There is no use of taking the time to go over a great number of them. You say that the most you knew about these men was that they were members of the union? A. Yes, sir.

Q. It is a fact, isn't it, that practically the great bulk of these defendants, you knew nothing about prior to the commencement of this suit? A. Oh, I didn't select the defendants.

Q. You didn't select the defendants? A. No.
4359 Q. Oh, who selected the defendants? A. Counsel, Mr. Davenport.

Q. Whose counsel? A. My counsel, and the counsel, of course, of the Anti Boycott Association.

Q. You are not paying Mr. Davenport's fees, are you, for appearing here? A. No, sir.

Q. But he is your counsel? A. Yes, sir.

Q. How many of the men whom you have named here as defendants in this law suit have you ever talked to personally? A. Oh, quite a good many.

Q. You are referring now to the Danbury defend-
4360 ants? A. Danbury and Bethel, yes.

Q. How many of these defendants worked for you at the time this strike occurred on the 25th day of July, 1902? A. Oh, only a few, I guess.

Q. How many? A. I couldn't say now exactly; three or four or five, something like that.

Q. And how many men did you say left your factory on the 25th and 26th day of July, 1902? A. Union men.

Q. All over? A. I think about 146, or something like that. 4361

The Court:

What was that answer?

Witness:

Forty to fifty; might have been a hundred and thirty-two, I think it was.

Q. That was on both days, 25th and 26th? A. Yes, and the others had to leave on account of—

The Court:

What year was this?

Mr. Mulholland: 4362

This time of the strike, July 25th, 1902; they occupied two days going out, I understand?

The Witness:

Yes.

The Court:

If my memory is correct there were some left in 1901?

Mr. Mulholland:

That we haven't touched on cross examination.

Mr. Merritt:

Those men came back. 4363

Q. Well of this number who went out in July, 1902, only three or four of them were made defendants? A. I think so.

Q. Can you name them to the jury? A. Those three or four?

Q. Yes? A. Why there is Carl Upman, Emil Flosky, Martin Lauf, that is all I can recall just now.

Q. You had nothing to do with selecting these men as defendants?

Q. When did you first know who were to be the defendants in this case, Mr. Loewe? A. When the names were selected and submitted to me. 4364

Q. Who selected them and submitted them to you? A. Mr. Davenport.

Q. Where were you at that time? A. I couldn't tell now whether it was in my office or not.

Q. Did you accept the list as he handed it to you, without correction? A. When they left there may have been two or three corrections.

4365 Q. Can you give us any idea as to why these particular men were selected as defendants?

Mr. Davenport:

When a man begins an action he takes those that have property, and we did so in this case.

Mr. Mulholland:

I didn't ask you for any information. Read the question, Mr. Stenographer.

(Question read.)

A. Why the same statements that Mr. Davenport made now he made to me at the time.

4366 Q. What is that? A. Oh, that statement as to people who had property.

Q. Then you took the list of such members of the hatters' organization that you could find and checked up those who owned their homes, did you? A. So I understand.

Q. And made them defendants? A. Yes, sir.

Q. And you selected these men without any reference to the question of whether or not they had ever at any time participated individually in any of the matters

4367 you complained of? A. No, sir; they were selected because they were members of the union.

Q. And because they had property? A. Yes, sir.

Q. Then the question of what had been done by individuals or what had been done with the knowledge of individuals did not enter into the selection of the defendants at all, did it? A. No.

Q. You simply took them because their names were on the list of members? A. Members, yes, sir.

Q. Can you tell the jury about how many union hatters there were in Danbury in 1902? A. Why, I understood—no, I couldn't tell, but I understood there were

4368 about three or four thousand of them.

Q. And how many defendants did you select from the city of Danbury? A. I think about fifteen or something like that.

Q. And can you tell the jury how many union hatters there were in Bethel approximately? A. No, I couldn't tell you.

Q. Or in Norwalk? A. I couldn't tell you.

Q. Do you now recollect that there were any men in Norwalk who you had ever met personally or heard

of prior to the commencement of the suit? A. That there were in— 4369

Q. At Norwalk? A. Yes.

Q. How many of them? A. Oh, I couldn't—Oh, a few. I remember Sulley and a number of these who were officers.

Q. About four or five? A. Well, four or five, yes.

Q. And how many men did you select, or you and Mr. Davenport select down there in Norwalk to make defendants in this case?

Mr. Merritt:

He said Mr. Davenport selected them. 4370

Mr. Mulholland:

He checked it up, he said.

Witness:

I don't know that I checked up Norwalk and Bethel.

Q. Oh, you don't know anything about Norwalk and Bethel? A. I didn't check those up.

Q. You only checked up the Danbury defendants? A. Yes.

Q. Then you left it entirely to Mr. Davenport as to the Bethel and Danbury defendants? A. To the Bethel and Norwalk defendants. 4371

Q. Bethel and Norwalk? A. Yes, sir.

Q. You had nothing to say about who should be defendants from those towns at all? A. I didn't say anything about that.

Q. Something has been said here in reference to Mr. Merritt of Danbury; what was his name? A. Charles H. Merritt.

Q. He is the man who you said counselled with you from time to time? A. Yes, sir.

Q. When did you begin to counsel with him in reference to the first visit Mr. Maher made to your factory? 4372 A. Oh, we had counselled since 1886—1885 and 1886.

Q. What, if any, official position did Mr. Merritt hold with the Manufacturers' Association of Danbury? A. None at all.

Q. At that time, I mean? A. Which time, 1885?

Q. 1902, say? A. He wasn't a member.

Q. Were you a member at that time? A. No, sir.

Q. The letters that you have introduced here as having written to Mr. Maher were the joint efforts of

4373 yourself and Mr. Merritt, were they? A. I made memorandums which are in my possession now, and I talked it over with Mr. Merritt after I had made the memorandums.

Q. And from the memoranda you prepared the letter? A. Yes, sir.

Q. Jointly? A. Yes, sir.

Q. And I understood you to say that the questions which you prepared to discuss with the officers of the organization were likewise the joint effort of yourself and Mr. Merritt? A. Yes, sir.

4374 Q. Now, can you give the jury about the time when the Anti Boycott Association was formed? A. Why, the Association, as an association was formed in the spring or summer of 1903.

Q. When was your preliminary meeting held, or first meeting when you got together to discuss it? A. Oh, I think that was in the early part of 1903.

Q. Who was present at that meeting? A. Who was present?

The Court:

190— and what?

4375 Mr. Mulholland:

1903; the early part of 1903.

A. I don't remember now that Mr. Merritt and Mr. Biggs and —

Q. Mr. Davenport? A. I think so, but I am not sure.

Q. Did you organize at that time and select your officers? A. No, no.

Q. When did you hold your first meeting at which the officers were elected? A. I don't believe that I was present.

4376 Q. You think you were not present? A. Yes, I doubt very much if I was present.

Q. Do you know who the first officers of the organization were? A. Why they elected an Executive Committee; I think that is all the officers they had.

Q. Who were the members of that committee?

The Court:

How is that material?

Now, the court won't allow you to take up a great deal of time on this line of inquiry.

Q. I will ask this question so as to raise the question, if the court please, can you give the jury a list of the membership of the American Anti-Boycott Association, at the time this suit was commenced? A. No, I couldn't. I couldn't remember the names of all the members of the Anti-Boycott Association. 4377

Q. Is it a secret list? A. It is not a secret, but a good many of them probably joined with the feeling that they didn't like to have their names divulged; I don't know but those whom I have met, and I don't know that there ever was—

The Court: 4378

How is that material, whether it is secret or not?

Mr. Mulholland:

Well, he has answered that he didn't know so that I will not press it any farther.

Q. Mr. Loewe, who is your partner? A. Martin Fuchs.

Q. And how long did you say he had been in partnership with you? A. Since 1885, I think.

Q. And was your partner, of course, in 1902, at the time of this strike? A. He was in Europe.

Q. He had a son working with you in the factory at that time, hadn't he? A. Yes, sir. 4379

Q. A member of the hatters union? A. I suppose so. He went out so he must have been.

Q. Went out at the strike? A. Yes, sir.

Q. Is he a defendant in this suit? A. No, sir.

The Court:

Take a recess until two o'clock.

Recess until 2:00 o'clock.

Afternoon Session. Wednesday, September, 18, 1912.

4380

DIETRICH E. LOEWE

on the stand.

CROSS EXAMINATION

Resumed by Mr. Mulholland:

Q. Mr. Loewe, you have testified, I believe, that commencing in the year about 1885 you conducted your manufacturing plant as a union concern? A. Negotiations started, I believe in December of 1885, but in 1886,

4381 early in January, I believe, that the factories were unionized.

Q. With whom do you mean that negotiations were begun? A. Why, Mr. Edmund Tweedy, President of the Tweedy Mfg. Co., and a journeyman by the name of Granville O. Holmes started this agitation at that time.

Q. The United Hatters of North America, of course, were not at that time in existence? A. No, they were not.

Q. What were the hatters organizations, I mean the working hatters organization then called? A. They
4382 were called the Fair Association.

Q. That is the Fair Association of Makers and the Fair Association of Finishers? A. Yes.

Q. At that time the manufacturers of Danbury also organized an association did they not? A. They did at that time, yes.

Q. And what did you call that association? A. The Fur Hat Manufacturers Association of Danbury.

Q. Then commencing some time in 1886, practically all the hat manufacturers of Danbury, through agree-
4383 ments with the union organizations, were conducting the Fair or Union shop? A. Yes, sir.

Q. And had the Hatters' organization a label at that time? A. Yes.

Q. And it was in fact the same label that is now the label of the United Hatters of North America? A. I think so.

Q. Then following the getting into effect of this agreement in 1886, this label was put in all of the hats manufactured in your plant? A. I think so.

Q. At the time you began the negotiations for the
4384 unionizing of your plant in 1885, what percentage of your employes belonged to one or the other of these unions? A. I couldn't tell.

Q. Can you give the jury any ideas as to whether there was half or more than half or less than half? A. Why, I think it was more than half.

Q. What, if anything, did you yourself do towards having the remainder of the men in your plant join one or the other of these unions? A. Why, I don't remember of doing anything with the exception of one man who Mr. Humphreys told me some time after, that Mr.

O'Rourke, he was, I think, President of the Finishers Association, that Fred Schultz who was working on a rounding machine, had not a Finishers card, and was working in the finishing room, but whatever was done about it I don't know. 4385

Q. Do you then know that he took out a card, did he? A. I understood that he took out a makers card.

Q. At your request? A. No, I did not request anybody.

Q. Mr. Loewe, isn't it true that several of the union men that left your plant on the 25th day of July, 1902, did join the union at your request at the time you unionized your factory? A. No, sir. 4386

Q. Do you say now that you did not request any of these employes of yours in 1886 to join the union? A. I didn't request anybody.

Q. But you had at that time entered into an agreement by which they could not be employed by you or your firm unless they did become associated with this organization? A. No, I didn't enter into an agreement in that way.

Q. Do you mean you could have the use of that label under that agreement without unionizing the factory? A. I didn't care for the label. 4387

Q. But you used it? A. Oh, they stated they would give cards to every man in the factory, and they did it. I had nothing whatever to do with it.

Q. You are pretty positive you didn't talk to one of those men about it? A. I don't remember talking to any single man, asking them to join the union.

Q. You gave us a conversation which you say you had with a Mr. Gildea? A. Yes, sir.

Q. Where is Mr. Gildea? A. He is in Danbury, I think he is. 4388

Q. By whom is he employed ? A. I think he works for us at the present time.

Q. As a matter of fact, he came back to work for you just after the strike was declared in 1902, did he not? A. About two or three weeks after the strike.

Q. And do you know as to whether he was a member of the union in good standing at the time this strike was declared? A. Why, he told me that the union had

4389 told him at a meeting that he owed some $45 or something like that.

Q. Then he came back to you and had this conversation with you, did he not? A. He came back to me, yes.

Q. And went to work for you? A. Not then.

Q. How long was it after you put him to work? A. Two or three weeks.

Q. He has been working for you since? A. Off and on, yes.

4390 Q. You think now he is in Danbury and in your plant? A. I think he is.

Q. You have given the jury the various conversations you had with certain of the Hatters Union; what date did you say you had your first conference? A. Why, in November, with Mr. Maher, you mean?

Q. Yes, sir? A. It was in November.

Q. 1901? A. 1900.

Q. And the next one was when? A. 1901.

Q. And the next one— A. Well, now just wait a moment. The first I had in November, 1900, and the second in the same month, then I had no more con-

4391 ferences until 1902.

Q. Didn't you have another conference in 1901? A. I don't remember of any conference in 1901.

Q. Referring to the time when you prepared this list of questions with the assistance of Mr. Merritt, did you at this time, Mr. Loewe, have any intention of unionizing your factory? A. I didn't know what I was up to, and I didn't know what to do.

Q. Do you mean you had in your mind the thought that you might at that time unionize the factory? A. If

4392 things were favorable, yes.

Q. Then when you came back to the next conference did you have any intention of unionizing your factory? A. Which conference is that?

Q. Well, the one following the conference where you had the list of questions prepared? A. Well, I had no conferences at that time; I don't remember a conference.

Q. Do you mean to say that you had no conference after the list of questions were prepared and submitted? A. No, sir.

Q. You left that conference with no idea of unionizing your factory? A. I left that conference with the idea that they were going to force me into the union. 4393

Q. I am asking you this question and I had rather you would answer the question, whether you left that conference with any idea of unionizing your factory? A. I left that conference with the idea that I was up against a proposition, and I didn't know what to do.

Q. Well, let it go that way.

Mr. Beach:

Call his attention to it again. He made a mistake when he says he did not have a conference in 1901. 4394

Q. Can you testify to these conferences, Mr. Loewe, without the use of your memorandum? A. I think I can.

Q. I don't want you to be wrong on the record, and I wish you would ascertain from examining your memorandum whether you had any conference in reference to this matter in 1901, so it will be straightened out on the record.

Mr. Beach:

There is no occasion for that. He has certainly made a mistake.

The Witness: 4395

On what date could I have had a conference in 1901, I can't remember.

Mr. Beach:

March 6th.

The Witness:

That was in 1900 and —

Mr. Beach:

Unless your previous testimony is wrong.

The Witness:

Oh, yes, that is 1901 and not 1902, yes, no conference in 1902 until after they were gone out. 4396

Mr. Beach:

In the latter part of 1901? A. Yes, that is right.

Mr. Beach:

Your last conference with the officers of the union was 14 months before the strike began? A. That is it, yes, the conference was March 6th, and the conference was March 20th, 1901.

4397 Q. Mr. Loewe, did the Fur Hat Manufacturers Association of which you spoke, have a constitution? A. Yes.

Q. Printed in pamphlet form? A. Yes, I think they were.

Q. What, if any, official position did you hold with them? A. I was secretary after the second or third year of its existence.

Q. Were you the secretary at the time of the organization? A. No, I was not.

4398 Q. Have you a copy of the constitution in force at the time of the organization? A. I don't know whether I have one or not. I think I have.

Q. Well, if we find that we may call your attention to it? A. I haven't it here, it is on record. It is in Volume IV, I think.

Q. Before you leave the stand, Mr. Loewe, I want to call your attention to a copy of by-laws of the wholesale fur felt hat manufacturers association of the United States, and ask you to state whether or not this is the constitution to which you refer as being the governing

4399 authority of the manufacturers organization in 1886, and from then on? A. I think it is, to the best of my recollection.

Q. I want to call your attention directly to article 10 of this constitution and by-laws:

"Article 10.

No manufacturer or local association of the national association of hat manufacturers are to recognize any employes, singly or collectively, that are not at this date recognized by the various manufacturers and local associations such as weighers and feeders and color men,

4400 laborers and employes of the blowing room, or any other employes that have not been recognized heretofore."

A. That is true.

Q. Will you tell the jury just to what that refers, as to what organizations were recognized theretofore? A. Finishers and makers associations.

Q. And those are the labor unions to which you referred a few minutes ago as existing in 1886? A. Yes, sir. The coners and slippers I believe was formed a little bit later and an agreement entered into, and the trimmers

union was formed and also entered into an agreement, but at the formation there were only two. 4401

Q. Then the effect of this section of your constitution was that when that agreement went into force, only members of those organizations were to be recognized? A. Only those members were to be recognized in those departments or their jurisdiction covered.

Mr. Merritt:

Do I understand this covers all the cross examination except on the question of damages?

Mr. Mulholland:

That is all, Mr. Loewe, for now. 4402

Mr. Merritt:

I am through with you, Mr. Loewe, for the time being.

Mr. Davenport:

Your Honor, for the purpose of connecting up and bring the true relations of these parties together, I want to read now from the American Federationist for the month of February, 1901, and it is apropos of just the questions that have been asked, and apropos of some matters that I want to read later. It is under the head of "United Hatters of North America" by John Phillips, Secretary. 4403

Mr. Beach:

That is subject to our general exception.

(At this point Mr. Davenport read from page 79 of the American Federationist in March 1901; the article is as follows:)

(American Federationist Vol. VIII. page 79.)

The United Hatters of America.

The first national convention of the Hatters' Union was held in the city of New York in 1854. The name selected for the organization was the Hat Finishers' National Association. Prior to 1854 there were local unions of hatters in various cities of the United States, some dating away back to the time of the Revolution. The hatters who came to this country in the beginning of the eighteenth century brought with them trade union ideas, and lost very little time in forming unions in the large cities; principally in the city of New York. 4404

(Seal of the United Hatters of North America.)

4405 The Hat Finishers' National Association kept up its conventions regularly every four years until 1896, when it amalgamated with the Hat Makers' National Association under the name of the United Hatters of North America.

Prior to the visit of Kossuth to the United States, the felt or fur hat was not worn to any great extent. Silk hats were worn by nearly all of the people, and they were manufactured in all styles, qualities, etc., so as to suit all tastes and the purses of all classes. In the early
4406 fifties the felt hat came into prominence and has gradually displaced its more showy but less useful and economical rival. To the man who keeps his eyes open as he walks the streets of our cities it is unnecessary to say that outside of a small sprinkling of people who wear the silk hat in order to give them an air of dignity or respectability, it is almost a relic of the past. Weddings, funerals, political parades, etc., sometimes give it a spasmodic prominence, but when the average man goes out into the world to engage in duties of a business or practical nature, he carefully stows away in a box what he calls his "plug"
4407 or "stovepipe," and dons the soft or slouch hat, or else the stiff hat, more popularly known as the "Derby."

There are two branches of the fur or felt hat industry viz., the "Makers" and the "Finishers". The former branch attends to the first stages of the manufacture, and the latter to the portion of the work which places the hat in a condition ready for the head of the wearer. Prior to 1896 the Makers and Finishers were two distinct and separate national associations. There was not any antagonism between them, nor were they bound together by any ties of either an official or unofficial nature. It
4408 may be well to state, however, that in 1885 both national organizations met through the agency of their respective boards of directors, and adopted a union label, calling it the label of the United Hatters of North America. Since that time and up to 1896 both organizations jointly paid all of the expenses of the label. Outside of this there was not any connection whatever, and as consequence "The United Hatters of North America" only existed on paper. When the amalgamation took place in 1896 both national organizations went out of existence, sank their identity, gave up the names under which they had lived for so many

years and which names they dearly loved and gloried in. 4409

They threw aside all sentimental notions, organized for practical work and for business, became The United Hatters of North America in reality, and the result has far surpassed the most sanguine expectations of all parties concerned. Over thirty non-union factories have been brought into the union ranks, the union label has attained a power and an influence far beyond the wildest dreams of its most radical and enthusiastic friends, and hat dealers tell us that it is almost impossible to sell non-union hats in the cities and towns of this country. It would not be fair to let this occasion pass without saying 4410 that if it were not for the loyal and faithful manner in which the organized labor of this land has supported the hatters' union label, all of our efforts would have been unavailing. It is true that we have spent an enormous amount of money in advertising and pushing the union label, but all of the money and time that have been spent would have gone for naught if our friends in the ranks of organized labor had not responded so nobly to our calls and requests.

The revenue of the hatters' national organization is all raised on the percentage system or, as you might call 4411 it, an income tax.

One per cent of each members wages is collected from him every week; one half of this is used to pay the running expenses of the organization, and the other half is put away in a defense fund, and only to be used in cases of strikes, lockouts, etc., or to pay the expenses of the agents whom we may send out on the road to agitate the union label.

Nearly all of our local associations have adopted the percentage system of collecting dues. Monthly dues are unheard of. Under the old system of monthly dues all 4412 had to pay alike, the man who was working steadily all week and had a good job paid his fifty cents or dollar a month, and the man who did not earn half as much had to pay the same amount, and even the man who might not have earned anything at all had to pay the same. All of this has been done away with. The burdens are placed on the backs of those who are best fitted to bear them. A member never gets in arrears. If he makes ten dollars in

4413 a week he pays his little ten or twenty cents on Saturday night, and he is in good standing in the union.

Strikes are only resorted to as an extreme measure when everything else fails. Nearly all of our troubles are settled by arbitration.

We are using about one million union labels per month, and at the rate that we are unionizing factories, we will, in the near future, have to increase the supply. All of the expenses connected with the label are paid out of the funds of the national association. The em-

4414 ployer or manufacturer does not contribute anything, nor would we permit him to do so. We reserve the proprietary right to the label exclusively to ourselves.

Great is the power of the union label and great is the assistance that it has received and is constantly receiving from organized labor. John Phillips, General Secretary.

Mr. Merritt:

Your Honor I want to read from the Danbury Evening News for the month of May 18, 1903.

Mr. Mulholland:

4415 I understand counsel propose to read from a large number of copies of the Danbury Evening News to which of course we object, and we would like with the consent of the court, to save a general exception if the court rules it is admissible for the purpose of notice, and we will not interrupt the general reading of the articles. We want it understood if the articles come in, that these articles come in subject to our exception.

The Court:

For what purpose are they offered ?

Mr. Merritt:

4416 They are offered on the subject of notice, to show that these various actions of which we complain have all been going on with the knowledge of the various defendants, in the town in which these newspapers were published, and because of their publication it is inconceivable that these defendants could have remained in ignorance of what was going on.

The Court:

Well, for that purpose, you may read them.

Mr. Mulholland:

I understand we have a general exception to this class of testimony. 4417

The Court:

Yes.

Mr. Merritt:

I am reading from the Evening Danbury Evening, Monday, May 18, 1903, it is headed, "Annual address of President Moffitt. The head of the United Hatters reviews his work and makes recommendations."

I will skip the first two or three paragraphs.

The article begins as follows: 4418

"In the course of his length address made last week at the convention of the United Hatters of North America in New York City, President Moffitt said, (omitting a part of what Mr. Moffitt said and getting down to this point).

The Berg Strike.

"The Berg strike, in progress at the time of the last convention, reached a victorious and happy culmination in September, 1900, resulting in a complete triumph for the union, so far as the Berg factory itself was concerned, and indirectly, by its moral effect and influence, aiding the organization throughout the country to an extent which even now is not fully appreciable and cannot be over estimated. Following closely upon the heels of this victory came the unionizing of the big adjoining Orange factory of E. V. Connett & Co., and a number of smaller shops in Newark, and other sections. Within six weeks union conditions were established in half a dozen Orange and Newark factories, improving the conditions, adding to the welfare and happiness and increasing, in some instances 100 per cent. or more, the earning capacity of from 1,200 to 1,500 of our members. 4419 4420

"Success in the Berg fight, a struggle that will be historic in the annals of the labor movement, was won after a battle of eleven months' duration." . . . . . .

"During the closing months of 1900, which will remain on record as a banner year for the United Hatters, there were added to the list of union factories, besides those already named, those of C. B. Rutan & Co., West Orange; the Newark Hat Company, Goodman & Co., and Kridel's, all of Newark; the Pioneer Hat Works, at

4421 Wabash, Ind., and E. A. Mallory & Sons, of Danbury."...

"In April, 1901, your president was called upon to assume the leadership in the second great fight for principle and unionism our organization has waged to a successful conclusion since he has held his present position. About the middle of that month the locals in Districts Nos. 18 and 19 petitioned me to bring before the Board of Directors, for consideration and action on their part, a strike then being prosecuted by the locals against the non-union firm of Henry H. Roelofs & Co., in Philadelphia. The directors heard statements from committees 4422 of the Roelofs shop crew and referred the matter to the General Executive Board, which, after a thorough investigation of the trouble, and several ineffectual conferences with Mr. Roelofs, placed your president in full charge of the situation, with full authority to direct the struggle and fight the battle to a finish, the Board of Directors empowering the expenditure of such money from its funds as might be necessary to end the strike.

Conditions in the Roelofs factory at the time the strike began were all that could well be imagined as averse and antagonistic to those for which unionism stands. 4423 Like former strifes engaged in by our organization, the Roelofs strike was a campaign for the recognition of union principles and the installation of union conditions in the big factory."....

"To enter upon a detailed narrative of the Roelofs fight would be to trespass upon the time of this convention, occupy the hours that may profitably be devoted to other use in consideration of problems to be faced in the future, and serve no good purpose. Jobbers and wholesalers in every part of the country, waited upon by our agents or apprized of the situation by circulars and letters, 4424 met us fairly and as a rule gave fair hearings to our case, a majority following up such action by refusing to handle the product of the factory until such time as our demands, which were generally conceded to be fair and liberal, were complied with.

"Of the excellent work done and results obtained by our agents who went out onto the road in this fight, too much praise cannot be spoken. The reports of their work, published in brief form in the Journal from time to time, should have been read by every member of the organiza-

tion, and gave a good idea of their methods and labors."..... 4425

"When it became evident that our efforts were destined to be successful and that surrender was but a question of time, the Roelofs firm made a desperate effort to turn the tide of public sentiment that had set against it, and to stop the fight which promised the firm nothing but defeat, by going into court and suing your national officers for damages to the extent of $250,000.".....

"Not daunted by this formidable move, your president and Executive Board continued their work along the same lines they had theretofore prosecuted, with such additional excellent results that at the end of fourteen months' fighting, July 15, 1902, Mr. Roelofs signed an agreement unionizing every department of his factory, and accepting a bill of prices making the earning power of the men employed therein largely in excess of what it had been prior to the inauguartion of the fight. We were obliged, because of the laws of Pennsylvania, to "whitewash" a number of the apprentices in the factory, who had been indentured under the State law, by granting cards to those of legal age, on payment of $25 each, and registering the others. 4426 4427

"A part of this agreement was the withdrawal by Mr. Roelofs of the damage suit against your officers and agents, while we agreed to grant to him the use of the union label in his hats and notify labor organizations throughout the country that he was entitled to the use of the label.....

"The only other strike of importance since the last convention that is of more than passing importance has been one now being waged against the non-union firm of D. E. Loewe & Co., of Danbury. This fight was inaugurated soon after the conclusion of the Roelofs fight, for reasons almost identical. Loewe refused to treat with the organization, to even confer with your officers, and has been quoted as asserting that he would die before he would make terms with the union. It is unnecessary to say more about this fight at present than that it is progressing satisfactorily and there is every prospect of its being concluded as successfully as have been the other fights of like nature we have prosecuted in recent years." 4428

Mr. Davenport:

4429 I want now to read from the American Federationist of 1900, page 294 for September under the heading, "United Hatters' Label." It is by John Phillips, General Secretary, and it completes the topic that was entered into in the other article.

(The article which Mr. Davenport read is as follows:)

United Hatters' Label.

(American Federationist, Vol. VII, page 294.)

The hatters' union label was first instituted in November 1885, and has been in continuous use steadily ever since that time. The original color, size, design, etc., has never been changed although several efforts have been made to do so by people that thought they knew of a way to defeat the machinations of the counterfeiter, and his allies—the non-union hat manufacturers; but the people who had the label in charge very wisely declined to do anything in the way of encouraging those who thought that their

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(Label of the United Hatters of North America.)

way of getting out a union label was a panacea for all the ills that union labels are subject to. It was thought by those who had the matter in charge that the counterfeiter was abroad in the land, and that it was only a matter of dollars and cents whether he followed you in any scheme that you might devise to prevent him from being successful in his nefarious operations. When the United States can not get the better of the counterfeiter, can not protect itself against his rascality, what chances had the hatters' union to protect itself. This is the way that the officers of the union reasoned, and the result is that the hatters' union label still retains its original shape, color, etc., to the present day. Then again the labor organizations of the country had been educated up to the point that they were familiar with the label, and to make any change in the label would necessitate going all over the work again at an enormous expense, in fact, we would have to begin at the beginning just the same as if we had never had a label at all, and it would have been many months before we could have had the organized labor of this country as familiar with the label as they were before the change would have been made. Taking everything into consideration the hatters are well satisfied that it was the best thing to do not to make any change.

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The label today is in a far stronger position than it ever was, and this has been brought about solely and entirely by the loyal and magnificent support that it has received from the organized labor of the land. Without their assistance the label would not be worth the paper that it is printed on. Of course, we have expended an enormous amount of money in advertising, but what would all of the advertising amount to if our friends in labor's ranks had not responded so nobly to our call. We can never forget the manner in which our label has been in demand, nor can we forget what has brought about the demand. At the present writing you can not go into a hat store in this broad land that does not contain hats with the union label, and in the majority of cases the number of non union hats is hardly noticeable. If a customer does not demand the hat with the union label, the retailer will not bother himself about the matter. If the retailer does not bother the manufacturer or the jobber from whom he gets his hats, the manufacturer or jobber will not bother himself, and so it goes. Retailers of hats have often told the writer of this article that they were not in love with him nor with his union label, but that they would not have a hat in their store without the label, for the reason that some union label crank might come in to buy a hat, and it might happen that the very first hat that he took hold of would not have the union label in it, and he would go out and circulate it around that there was not anything in the whole store but scab-made hats. Everything depends on the consumer, on the man who goes into a retail store to buy a hat. He has the game entirely in his own hands; he is the man to whom we look for support, and he is the man who has given us his support and made the union label the great success that it is at the present writing. For the support that we have received, we return our most sincere thanks and we earnestly hope for a continuation of it. We feel certain that we will get it. Our friends will never tire of doing good.

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Since this article was commenced, the writer had to lay it aside for the purpose of taking part in the negotiations that have ended the strike at the factory of F. Berg & Co., of Orange, N. J. The strike lasted 11 months; the expenses of conducting it have been very heavy; but the reward has been ample. The factory is with one or

4437 two exceptions the largest hat factory in the United States. It is now in the union ranks, and it will remain there for many years to come unless something of a very serious nature should intervene.

The whole-souled and hearty assistance that we have received from organized labor during the life of the strike has far exceeded anything that we had anticipated. In this case, as well in all others of a similar nature, the union label was the factor, the lever that moved the machinery. Great is the power of the union label. Without

4438 it our trade would be a deplorable condition. In closing this article, I must again convey to the organized labor of the land the thanks of the United Hatters of North America for the noble, persistent and loyal manner in which they have demanded the hat with the union label, and have resolutely refused to wear or buy the product of non-union labor. John Phillips, Genl. Secy.

Mr. Davenport:

Now, bearing in mind what has been said about the history and origin of the United Hatters of North America and their predecessors, I want to read a little now from the

4439 proceedings of the Convention of the American Federation of Labor of 1881. Your Honor will remember that we allege in our complaint that this great organization was formed for the purpose, among others, of assisting in the declaration of boycotts formed by the defendants and others, and I would like to read now a little from the report of the first day's proceeding of the first convention held at Pittsburg, Nov. 15, 1881.

Mr. Mulholland:

Well, I suggest that I save an exception from reading the record so far distant in the past.

Mr. Davenport:

4440 Now on the 4th day of the session or the session for the 4th day, in the morning session, page 21, appears this:

"Mr. John Phillips, Secretary of the National Hat Finishers Trade Association, wrote that his organization would probably have been represented in the Congress, but they had not seen the call and only learned that the Congress was in session from the newspaper reports of the first day's proceedings." Well, I will pass along over the interesting period until we come to the year 1886,

when the American Federation of Labor was formed under that name, under the title. "The Federation of Trades and Labor Unions" had been its title before, but Mr. Gompers was an active man from the very first day, and as the result of a large number of unions coming in at that time, they reorganized and came out as the American Federation of Labor, and the proceedings are all here. 4441

Now that body had a constitution, and this is the first constitution of the American Federation of Labor.

Mr. Mulholland:

Now, Mr. Davenport, where are you, what year? 4442

Mr. Davenport:

1886, that is, under that title. 1889 Mr. Gompers introduced a resolution which was adopted, making the organization continuous since 1881, although under the new title.

Mr. Mulholland:

This is all objected to, especially the narrative.

Mr. Davenport:

Well, this is explanatory of it. It is not testimony, but it is explaining why I want it.

The constitution of the American Federation of Labor at that time adopted provided, after its preamble, for the name and objects. 4443

Article II, Section 1. The object of this federation shall be the encouragement and formation of local trades and labor unions, and the closer federation of such societies through the organization of central trades and labor unions in every city. And the further combination of such bodies in the state, territorial or provincial organizations, to secure legislation in the interests of the working masses.

Section 2. The establishment of national and international trades unions based upon a strict recognition of the autonomy of each trade, and the promotion and advancement of such bodies. 4444

Section 3. An American Federation of all national and international trades unions to aid and assist each other; and furthermore, to secure national legislation in the interests of the working people, and influence public opinion by peaceful and legal methods in favor of organized labor.

4445 Section 4. To aid and encourage the labor press of America."

It provided for its officers, which consisted of a president and two vice presidents.

It provided in Section 6 for an executive council, and in Section 3 of Article VI. was this provision;

Section 3. While we recognize the right of each trade to manage its own affairs, it shall be the duty of the executive council to secure the unification of all labor organizations, so far as to assist each other in any justifiable boycott, and with voluntary financial help in the event of
4446 a strike or lockout, when duly approved by the executive council."

And in those days it was provided that this constitution, in Article 9, might be amended.

"Article 9, Section 1. This constitution can be amended or altered only at a regular session of the convention, and to do so, it shall require a two-thirds vote of the delegates, and must be ratified within six weeks thereafter by a majority vote of the members of the societies composing this Federation."

4447 "Now in the proceeding in the convention of 1885 on page 12, being the second day in the afternoon session, Mr. Kirchner, a delegate, introduced the following resolution:

"By Mr. Kirchner. Whereas, it has come to the knowledge of this Federation that the popular and favorite weapon of organized labor (the boycott) has in many places been grossly abused and prosecuted by unscrupulous and designing persons connected with some of the organizations in this country; and

Whereas, such action might endanger the usefulness
4448 and effectiveness, of an otherwise perfectly honorable legitimate and powerful weapon with which the toilers can compel their oppressors to make amends and concessions to the rightful demands of organized labor; and

Whereas, some organizations have resorted to the boycott upon every frivilous, trivial or imaginary grievance without first giving the subject that attention and thorough investigation which the justice and gravity of the question so necessarily requires; and

Whereas, rival factions of working men have actually been known to have boycotted the goods of firms that

employ none but union workingmen and pay the highest 4449
rate of wages in their line of manufactures;

Therefore, be it resolved, that this Federation of Labor do discontenance such practice in the future, and recommend to all organizations of working men the necessity of providing the proper safeguards, in order to prevent its repetition; and be it further

Resolved that the Federation is thus impelled from the desire to avoid having odium cast upon the honest and just efforts of working men in bringing to terms unreasonable and tyrannous employers."

Now that resolution was referred to the committee 4450
on Resolutions, and on page 15 of the report of the same proceedings of 1885, the committee on resolutions reported recommending the adoption of that resolution. And that report was adopted. On page 16 it says, "The report of the committee on resolutions as thus amended was adopted, seriatim, and as a whole."

In 1886 the session at which the reorganization was completed, on the fourth day, page 18, I read as follows:

"Resolutions in favor of boycotting the New York Tribune, the Cleveland Daily Leader and Evening News, were adopted; also to support the journeymen bakers na- 4451
tional union in their work of organization and to buy none but union made bread with the union label. The blue label of the cigar makers international union was unanimously endorsed as the only union label in that trade. The indiscriminate and frivolous use of the boycott as a remedy on every trifling occasion was strongly condemned and its careful and energetic use as a last resort, when properly undertaken, was most favorably endorsed, also the formation of state trade assemblies was recommended."

Now, I want to come down to the year 1891, the re- 4452
port of the proceedings for the year 1891 page 34, second column near the bottom of the page on Resolution No. 101.

"No. 101 on endorsing strike of hat finishers at Schoble & Co.'s factory, Philadelphia, Pa. Referred to committee on labels and boycotts."

That was five years before they joined or were actually affiliated.

On page 47 of the report of the proceedings of 1891 appears the report of the committee on labels and boy-

4453 cotts, "The committee report favorable on the Exhibit 101 in relation to the boycott on F. Schoble, hatters in Philadelphia for employing non union labor. The record shows that that report was concurred in by the body.

Now if your Honor please there is one other before I quit, and that is in the year 1895, the proceedings of the convention of 1895, and it is at page 60. The committee on credentials reported as follows:

"The undersigned, your committee on credentials, having considered the protest of the garment workers against seating the delegates from the progressive musical union, arrive at the following conclusion. In view of the fact that this organization has flagrantly and persistently violated the by laws and constitution of A. F. of L. in refusing to endorse the boycott levied by the garment workers as endorsed by the A. F. of L., and has done all in their power to offset every boycott, we recommend that the delegates be not seated."

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This is signed by John P. Phillips and others.

"The secretary stated that such action practically expelled the organization for refusing to endorse the boycott. While censure might be in order he thought ex-

4455 pulsion was rather hard.

The report was adopted."

Mr. Merritt:

I read from the Danbury Evening News of June 18, 1900, on page 4.

"Advertising the Hat Label.

The United Hatters have spent $30,000 in two years for that purpose.

The Cleveland, Ohio, World in an article regarding the United Hatters says:

4456 "A lesson can be learned by the labor unions of Cleveland by the work for the union label that is being done by the United Hatters of North America. A New Jersey concern recently refused to recognize the union, and ever since the organization has been carrying on a wonderful fight against the concern. So far the hatters show every sign of whipping the employer, who is one of the largest manufacturers of soft hats in the country. They carry on quite a systematic fight, and one that is telling. The union has perfected a secret service whereby we know just where every case of hats shipped out of the

factory goes to, and keep it in sight until it arrives at its 4457
destination. Here the case is watched and if it goes to a jobber, every sale that he makes is watched and known. The organization has several agents out throughout the country who are fighting the firm. Twice has one of our agents, Mr. Brady, been in Cleveland. He is here now. The first time he was here he visited the labor organizations and told them of the fight and asked that none but hats with the union label be purchased. One of the jobbers to whom the New Jersey firm sold hats is located in Cleveland, and it was this fact that brought Mr. Brady here. He visited every dealer of hats in the city, some 4458
of the members of the Clerk's Union accompanied him. To these dealers Mr. Brady explained just what he wanted and expected. As a result of his work a jobber last Wednesday signed an agreement with Mr. Brady to sell nothing but union hats in the future.

At the convention of the Hatters held recently in New York the organization decided to employ five men to do nothing but advertise the union label. These men will work for three years and they will advertise not only their own, but other union labels wherever the opportunity presents itself. 4459

In this connection it can be stated that in two years this union has spent $30,000 for the purpose of advertising their label."

August 10, 1900. Danbury News.

"Orange Hatters May Parade. To celebrate the unionizing of the Berg Factory.

The Newark Evening News last evening said:

According to reports, the final details in connection with the settlement of the strike in the hat factory of F. Berg & Co., Forest St., Orange Valley, have not yet been agreed to by both the firms and the representatives of 4460
the Union Journeymen Hatters. There is, however, hardly any doubt but that these details will be satisfactorily arranged this afternoon. The members of the Berg firm, and national president John A. Moffitt of the United Hatters of North America, with the officers of the Orange organization, were in conference last night and this morning, but no information was given out.

It is said that the most important point in dispute is in regard to how many men went "foul" will be given

4461 union cards. In hatters language a man is "foul" when he goes back on the union. A union hatter is known in the trade as a "fair" journeyman. From what can be learned the Berg firm will want nearly 100 of their men to get union cards.

The journeymen had great receiving yesterday and last night because of the settlement of the Berg strike and there is a movement on foot if the officers of the union will give their consent, to have a parade through the principal streets of Orange and Orange Valley on Saturday.

4462 Another report in circulation in the hatting district is to the effect that Eugene V. Connett & Co. whose large factory is in South Jefferson St., near the Berg plant, will soon make its place union. At the present time this factory is an "open" shop, which means that both union and non union men can work there.

The Connett firm is next largest to the Bergs in the hatting industry, and to have it a union factory means a great deal to the union hatters. This will also mean a special honor for National President Moffitt who success-

4463 fully handled the Berg strike, which was one of the most bitterly contested in the history of the trade in Orange Valley, having lasted for ten months."

Mr. Merritt:

I will read from the Danbury Evening News for August 11, 1900, headed in the middle of the page "Orange Hatting Affairs."

A number of Union men were "shopped" at Berg's factory in Orange Valley yesterday and today, and it is now considered that the place is thoroughly unionized. There are, however, a number of non union men, mostly

4464 Italians and Hebrews employed there, but it is said the firm will be in a position to let these men go within two weeks, by which time over 200 of the union men, will be, it is said, at work in the factory.

Neither the officers of the union nor any member of the Berg firm will talk about the terms upon which the strike was settled.

It is reported that next week the factory of E. V. Connett & Co. Orange Valley, which is now an open factory will go "fair".

POOR COPY

The union hatters in the Orange District are much pleased over the fact that the Mercy factory in this city is now being operated on a union basis. It is reported that this firm, which does a very large business, does considerable work for the Bergs. Newark News." 4465

Mr. Merritt:

I will now read from the Danbury Evening News of August 14, 1900.

"Strike Expected Today."

Little likelihood of unionizing the Connett factory without an effort.

The Newark Evening News yesterday said: 4466

It was admitted at the headquarters of the union Hatters on Forest Street, Orange Valley, this morning that it now looks as though a strike in the factory of Eugene V. Connett and Co. in South Jefferson St. can hardly be avoided. National President John A. Moffitt of the United Hatters of North America told a news reporter that notice was served upon the Connett firm at its New York office on Thursday last that unless it would agree to unionize its place of business by tonight, a strike would be declared tomorrow.

The National President further admitted that thus far no word had been received from the firm, and he insinuated that the indications were that there would be a strike but he hoped that the firm would decide to give in this afternoon." 4467

"We dislike very much to have a strike in this or any other factory," said Mr. Moffitt, "but if forced to make a fight the union is prepared to do so, and I tell you we will win out." Orrin Youman, Supt. of the Connett factory when seen about the question about unionizing the factory said, "We are minding our own business, that's all. Our employes have presented no grievances, and we know of no probable strike in our factory." The union men now claim to have 150 mechanics at work in the Berg factory, and by tomorrow night they expect to have as many more. It is said that the non union men who were not given cards by the union when this strike was settled last week, are gradually leaving of their own accord and it is now believed that there will be no trouble in having all the non union men quit work at this place. 4468

4469 It was at first thought that some of the Italian workmen who filled the strikers places would give the firm some trouble before consenting to go out, but thus far there has been no trouble, and both the firm and the union officers do not expect any.

Mr. Merritt:

I read from the Danbury Evenings News for August 17, 1900 on page 4, under the heading

"Orange Hatting Notes.

It is believed that the strike in the making department of the hat factory of Brennan & Carr on Wallace
4470 Street, Orange, will be settled today.

The National Officers have about settled the trouble in the making department in the Berg factory, and this morning the fair men went back to work. It is said that the non union men employed in this factory will be allowed to go by "easy stages."

There is nothing new in the Connett factory dispute. All the men are at work and the union has not retracted its statement that it will boycott all goods turned out from this factory. Eugene V. Connett, Sr. the head of the
4471 Connett firm said this morning that he did not believe his men would quit unless they had reasons, and he was confident that they did not have such an excuse, and furthermore they would not have. There was, he said, no sign of a strike in his factory."

Mr. Merritt:

I now read from the Danbury Evening News of Saturday, August 18, 1900, page 3, headed "The Connett Matter.

Treasurer Maher gives a statement of the attitude of the National Board.

4472 Treasurer Maher of the United Hatters of North America arrived home last night from New Jersey, where with the other National Officers, he has been for a week attending a meeting of the general executive board held in Orange Valley. This meeting resulted in the unionizing of the Berg factory last Saturday.

Mr. Maher said last night that the reports in the Newark Evening News and the Newark Daily Advertiser stating that the national officers had ordered the men out was erroneous, as the officers did not call the men out from that factory nor do they intend to do so, as they find

from their past experience that it is not always the best policy to call the men out of the factory when it is desired to induce a manufacturer to adopt the union label. 4473

It is the intention of the national association to unionize the Connett factory but in so doing they intend to adopt the same tactics which resulted in unionizing the Berg factory. By past experience in strikes the national board has found that it is more advantageous to allow the men to continue at work during the negotiations, thereby allowing them to be self supporting during that time, than to make them a continual expense to the union as they would be were they now called out. Should the union men now employed in the Connett factory be called out, as it has been stated the officers of the union intend to do, the action, instead of being any benefit to the union cause, would simply make room for that number of non union workmen who represent an element which the union is making an effort to remove. 4474

Mr. Maher stated it as his opinion that Mr. Connett will see that it is to his interest to unionize his factory without making any content or going to any expenses." Mr. Merritt:

I will now read from the Danbury Evening News Tuesday, Sept. 25, 1900, page 4 under the heading: 4475

"Hatting in Orange.

The Newark News last evening said, the officers of the Orange Association of the United Hatters of North America, with the members of its executive committee and President John A. Moffitt and National Director Timothy D. McCarthy of the National Association completed the final details this morning in connection with the unionization of the E. V. Connett & Co. hat factory.

On Saturday afternoon Mr. McCarthy who on Sept. 22, 1899, put out the colors of the local organization at strikers headquarters in Forest Street, took in the colors in celebration of a double victory, the unionizing of the Berg and Connett factories received an ovation. 4476

By winning the fights against the Berg and Connett firms it is admitted the union has gained the victories won by the organization in the history of hatting strikes in the Orange Valley district.

4477 At the present time there is work for over 100 journeymen hatters in this district. Finishers are especially in demand."

Mr. Merritt:

I will now read from the Danbury Evening News for Nov. 9, 1900, on page 8, headed

"A Union Factory."

E. A. Mallory & Sons plant was unionized this morning.

When the whistle on E. A. Mallory & Sons hat factory blew this morning, it summoned the operatives to work in a union factory instead of a non union one as it was yesterday. 4478 The unionizing of the factory was effected yesterday afternoon and the members of the local hatters union are jubilant over the addition of this large factory to the number that are operated under the rules of the hatters union.

Numerous attempts to unionize the factories of E. A. Mallory & Sons have been made within the last few years but the conferences that have been held between the members of the firm and the officers of the Hatters Association have not until now, resulted in any agreement.

For several weeks past there has been frequent meetings of the local hatting officials and the members of the Mallory 4479 firm with a view to making the factory a union one.

A couple of weeks ago Pres. Moffitt and Secy. Phillips of the National Association were in Danbury in this connection. Terms were offered the firm whereby the factory might become a union one and the local officers carried the project to a finis.

Neither the members of the firm of E. A. Mallory & Sons nor the hatting officials are willing to give out many of the particulars of the affair but it is understood that the negotiations that preceded the making of the factory a union one had mostly to do with a number of employes who were under the ban of 4480 the union.

These employes had left the union to work in a non union factory thereby breaking certain rules of the union, and fines of various amounts were placed upon them before the officers of the hatting association agreed to take them back into the Union ranks. After several conferences a satisfactory agreement in this respect was arrived at and all obstacles to unionizing the factory were removed."

(Ten Minute Recess.)

Mr. Davenport:

4481 Right in this connection I wish to read from the American Federationist for the month of September, 1900, and first from page 286, under the heading, "What our organizers are doing from the Atlantic to the Pacific."

Mr. Mulholland:

Is that one you omitted from your reading?

Mr. Davenport:

Oh yes.

Mr. Mulholland:

It is subject to our exception.

Mr. Davenport:

4482 Under a picture of the United States divided into districts, it says, general unions monthly report.

Hatters. General Secretary John Phillips of the United Hatters, reports Thanks to organized labor the Berg strike is over. It is a grand big shop, 200 of our men go to work in it right away, displacing an equal number of scabs. All hail the power of organized labor and of the union label."

On page 287, in the last column, under the heading, "District No. 2, Middle, New Jersey, Orange.

"Organizer J. A. Warner, reports that victory has at length perched upon the banner of the United Hatters Union 4483 in Orange Valley. The fight of the Union Hatters against the non union firm of F. Berg & Co. was begun on Sept. 22nd of last year, when nearly 400 employes in the Berg factory left work because of the firm's refusal to abide by the law adopted by the union providing that 55 hours should constitute a week's work. Since then the strike has been vigorously prosecuted. With President Moffitt as the fight leader the union men first concentrated their attention upon preventing the Berg firm from securing men to take the places of strikers. One of the first effects of the strike was the amalgamation of the United Hatters of North America, and the United Hat Makers of 4484 America by which the latter organization was merged into the former. Early in the strike an attempt was made by the Berg firm to stop the espionage to which the factory was subjected by union tickets, by a complaint to Judge Ford that the strikers were inciting trouble by patrolling the streets about the factory. The complaint was referred to the grand jury and the members of that body, after an investigation, made a report complimenting the union officers, and the strikers upon the orderly and creditable manner in which the strike was be-

4485 ing conducted. Last fall the fight against the firm was extended by the union sending missionaries throughout the country to secure the sympathy and co-operation of labor unions to urge the boycott of the Berg hat. The strike has cost the United Hatters over $20,000, and it is said that the Bergs have spent over $300,000 in fighting the union."

Mr. Davenport:

I read from the report of the proceedings of the Convention of the American Confederation of Labor for the year 1896, held at Cincinnati, Ohio, in December, following the affiliation of the United Hatters with the American Federa-
4486 tion of Labor, at which Mr. John Phillips was one of the delegates from the United Hatters of North America, and I read from page 32, near the middle, being the concluding portion of the report of the secretary of the A. F. of L.

"To strike was at one time a crime. Today it is an indisputable right of labor. No laws have been changed but the courts have been compeled to harken to an educated public opinion. So with the boycott, first denounced and vilified and case for imprisonment. Now it is universal, practiced by all classes, and cases in court are rapidly growing fewer. Public
4487 opinion has again asserted itself. It will be so with other reforms just as soon as organized labor is numerous and strong enough to not only make but be, public opinion."

This report was referred to the committee on Secretary's report, and that committee report, and its report is to be found on page 37 of the same proceedings in the first column near the bottom and I read a portion of it.

"Statement covering strikes, lockouts, and boycotts, is worthy of special commendation, and we recommend that statistics of this nature be gathered and submitted to all succeeding conventions, and believe that the officials of all affiliated bodies should cooperate with the executive council in making
4488 said statistics as accurate and valuable as possible."

"Moved to adopt the report of the recommendation. Carried."

At that convention Mr. John Phillips was a member of the committee on boycotts of the American Federation of Labor, and I wish to read a portion of that report to show the action of that committee as reported by John Phillips, Chairman, and that report of the committee on labels and boycotts is as follows:

"The committee on label and boycotts reported by cigar- 4489
makers delegation,

Whereas, the practice of Kerbs, Wertheim & Shipper, cigar manufacturers of the City of New York, make cigars under the filthy tenement house system which has been condemned by all classes of society as being degrading morally and physically to all so employed, and whereas, the firm of Kerbs, Wertheim & Shipper has absolutely refused to unionize the factory and to pay the union scale of wages, and a boycott has been levied on said firm by the international cigar makers unions of New York, and said boycott having been endorsed by the American Federation of Labor, 4490

Resolved, that the convention of the American Federation of Labor request delegates upon their return home to urge wage workers and the public generally to take such action as to induce the cigar manufacturers of Kerbs, Wertheim & Shipper of New York City, to realize the necessity of employing union men. Approved by the convention."

Then the next resolution is by Delegate Woodbury.

"The firm of Curtiss & Kerns proprietors of the Elevator Milling Co. of Springfield, Ill., remodelled a building, an addition to their hotel, known as the Revere House, and awarded the contract to a Mr. Gelman and his scabs in spite of the petitions and protestations, and whereas the trades assembly have taken the case under consideration and placed a boycott upon all brands of flour manufactured by the Springfield Elevator Milling Co., and believing we are justified in carrying said boycott to the bitter end, and whereas the said boycott has received the endorsement of the Illinois state federation, 4491

Therefore be it resolved by the American Federation of Labor in convention assembled to endorse the boycott against all products of the firm of Curtiss & Kerns of Springfield, Ill. Approved."

Then follows another resolution in regard to the Garford 4492
Mfg. Co. of Elyria, Ohio, that is the Garford Mfg. Co.

Then there is another boycotting Donahue & Henneberry of Chicago, and another endorsing a boycott on the goods of H. Block & Bro. of St. Louis, cigar manufacturers.

"Your Committee on labels and boycotts have considered all matters which were brought to its attention in detail and all matters have been reported to the convention in accordance with our findings. Respectfully submitted John Phillips, Chairman."

4493 Adopted as a whole.

Mr. Merritt:

I will read now from the Danbury Evening News for April 9, 1902, page 4:

"United Hatters Sued.

H. H. Roeloff of Philadelphia wants to $250,000 damages.

Several Danbury men are defendants in a suit for $250,000 damages brought by Henry H. Roeloff the Philadelphia manufacturer against the officers and board of directors of the United Hatters of North America. James H. Maher of this
4494 city is treasurer of the association, Patrick Lawlor of Bethel is Vice President and Charles H. Barrett and Martin Gorman of this city are members of the board of directors.

The Board of Officers and the Directors number 15 and they are the defendants in the suit which has been brought in the United States Circuit Court.

In the complaint it is alleged that the Hatters Association entered into a conspiracy to injure the complainant's business by circulating disparaging circulars causing a libel to be printed in the Hatters Journal and boycotting his goods. In
4495 the complaint one instance in which the union presented the complainant from making a sale of a bill of goods amounting to $100,000 is cited.

The local officers who are involved in the case were unable to give much information in the matter today, as Secretary Phillips of Brooklyn is the chief defendant and no official notice has yet been received here.

The suit is the result of the efforts of the Hatters to make the Roeloff factory a union one by inducing jobbers and retail dealers to handle only hats bearing the union label.

The hatting officers announce that they will contest the
4496 suit to the end and are confident of success."

Mr. Merritt:

I will now read from the Danbury Evening News of Thursday, April 10, page 3rd:

"The Roeloff Suit."

More details of the Philadelphia hatters against Union Officers.

The announcement in last evening's paper that Henry H. Roeloff of Philadelphia had brought suit against 15 representatives of the United Hatters of North America, for $250,000 damages because of an alleged conspiracy on the part of the

defendants in issuing false and defamatory circulars causing to be printed a libel in their Journal, and with having agents in a number of states seeking to boycott his goods, was read with much interest by the Hatters of this city and Bethel, especially as the defendants all either live here or are well known here. 4497

The suits were brought in Philadelphia Evening Telegram gives the following detailed account of the action:

'The defendants named in the suit are John A. Moffitt, John Caskey, John Harrigan, James Byrne of New Jersey; Martin Lawlor, James P. Maher, John Cords, Charles J. Barrett, Wm. A. Brennan, Daniel P. Kelly, Louis B. White of Connecticut, John Phillips, Geo. J. Phillips of New York and W. C. Hannelly of Massachusetts. 4498

Roeloffs trading under the firm name of Henry H. Roeloffs & Co. is engaged in the business of manufacturing and selling of hats for the wholesale and retail trade of this and foreign countries. In his statement of claims he alleges that it has always been his policy to allow no person to exercise any right to direct or control his business which he says he has always conducted upon the broad and liberal American principle of no discriminating against any person seeking employment because of his being or not being connected with any political, social, religious or labor organizations. 4499

According to the statement filed, it seems that about a year ago Mr. Roeloff discharged two men for want of work. A number of his employees who belonged to the local union, against whom suit is also soon to be brought left his employ. Some of the above defendants then tried to compel Mr. Roeloff to submit to their organization. Mr. Roeloff agreed to join their union, but wanted the right reserved to himself to employ whom he pleased, without regard to their being or not being members of the union. To this the defendants would not agree, and then commenced the conspiracy which is charged in the statement filed. 4500

On one occasion as set forth in the statement, and which it is alleged, they admit in their Journal published in Danbury, Conn., to defendants prevented the plaintiff from making a sale of $100,000 worth of goods to one customer; hence the large amount named for damages.

Along with the statement there is filed copies of the circular issued and copies of the letter threatening the boycott. The plaintiff also has letters and circulars similar in construction from Labor organizations and business men from Texas,

4501 Minnesota, Wisconsin and New York. This suit the plaintiff holds will determine whether "Labor organizations can run a man's business." One of the libels charged is that there is a strike at Roeloff's factory, when as a fact, there has been none."

(Then follows the circular which I will omit. That is the circular which has been read and it is attached to the complaint and made a part of the Hatters Journal. I will read just the first paragraph of it.)

"To Union Workmen and Friends of Organized Labor:

4502 Notice is hereby given that a state of strike exists at the hat factory of Henry H. Roeloff & Co., Philadelphia. This firm, whose business is extensive and prosperous, has driven its employes to extreme measures by its persistence, unfair and un-American policy of antagonizing American labor, forcing wages down to a starvation scale, and giving boys and cheap unskilled foreign laborers preference over experienced and capable union workmen, etc."

The circular is signed by John A. Moffitt, President and John Phillips, Secretary.

Then I turn to the Danbury Evening News for Friday, May 30, 1902.

4503 "The Roeloff Case."

Hatters win in preliminary trial in Philadelphia.

In the lower court in Philadelphia yesterday the National Hatters Union won the first round in its fight with Henry H. Roeloff the Philadelphia Hat Manufacturer.

Two boys have been arrested on a charge of conspiracy presented by the firm and were tried yesterday.

The Union considered that this prosecution was made in order to establish a precedent to be used in the big fight, and attended to the defense of the boys. The judge decided that the boys were not guilty of a conspiracy in taking part in the

4504 strike."

I will now read from the Danbury Evening News for Saturday 19, 1902.

"After negotiations of several weeks duration, the factory of Henry H. Roeloffs in Philadelphia was made a union only yesterday, when the necessary papers were signed and the union label was placed in the factory. Naturally the members of the Hatters Union are gratified over this, as the factory is one of the largest in the country, employing about 500 hands, and the quality of the hats made is such as to make this fac-

tory a desirable one for the union. Treas. Maher of the United Hatters of North America who has been in Philadelphia some time on the matter has not returned." 4505

Then I read from the Danbury News for Friday, July 25, 1902.

"After Loewe Factory."

The Hatters Union will attempt to unionize this plant.

The United Hatters of North America which has recently unionized several of the largest hat factories in the country, has transferred its operations to Danbury and announces its intention of unionizing the factory of D. E. Loewe & Co. President Moffitt, Vice President Lawlor, and Treasurer Maher went to the factory and ordered all the Union men employed there to quit work. The men did immediately as instructed and the factory is now short handed in all departments. 4506

Mr. Maher said today that it is the intention of the union to make the factory union in a short time. The number of men removed this morning was about fifty. When the union men stopped work but nine men remained in the sizing room and these were induced to stop afterwards. Mr. Maher stated further that all the men in the factory will be out tomorrow.

Mr. Loewe said to a reporter today that although the factory is crippled in some departments operations are being continued and the firm expects to be able to get men enough in a few days to have the factory in full operation again. He stated that the firm had been advised by the union a year ago of its intention of unionizing the factory, but that the firm cannot see its way clear to put itself under the direction of the Hatters Union. "The grade of hat we make," said Mr. Loewe, "makes it impossible to make hats under the union rules and market them at a profit." Mr. Loewe stated that the firm does not intend to accede to the demands of the union, and said that there has been no trouble between the firm and its employes." 4507 4508

I will now read from the Danbury Evening News of Saturday, July 26, 1902, page 4:

"The Loewe Matter.

The United Hatters induce non union men to leave the plant.

No agreement regarding the unionizing of the factory of D. E. Loewe & Co. has yet been arrived at between the firm and the United Hatters of North America. The Hatters Union

4509 is determined to unionize the factory and the firm announces that it will continue to do business as before.

Yesterday the officers of the Hatters Union removed all of the union men from the factory and several of the non union operatives. Today the officers went further and induced all of the non union men to leave. The officers decline to state under what conditions the men were induced to stop work. Today there are no men working in the factory.

J. C. Maher, Treasurer of the United Hatters of North America, said this morning that the situation will probably remain the same until next Wednesday unless the firm makes
4510 some advances. If none are made, President Moffitt of the National Hatters organization will establish an office in this city and direct the fight personally."

I will now read from the Danbury Evening News of Monday, July 28, 1902, page 10:

"The Loewe Matter.

Situation between firm and union unchanged today.

The situation at the factory of D. E. Loewe & Co. which the United Hatters propose to unionize, is unchanged today. A few men are working in one or two of the departments. Mr.
4511 Loewe said this morning that he intends to keep the factory in operation and has no intention of having it made a union one.

Martin Fuchs a member of the firm is on his way home from a trip to Germany and is expected to arrive in a day or two. The officers of the Hatters Union had nothing to say today, simply stating that there is no change in the situation. A Hall on White Street has been put into use as headquarters for the hatters who have been called out of the factory."

I will now read from the Danbury Evening News for Wednesday, August 20, 1902.

"Hatters Leave Town.

4512 Sixty five of Loewe Company's employes go to other districts.

About 65 hatters former employes in D. E. Loewe & Company's factory left town this morning for other hatting districts. A dozen went to Yonkers, several went to Philadelphia and the rest went to New Jersey.

These men were thrown out of employment by being called out from the factory by the officers of the United Hatters of North America which announced its intention a short time ago of unionizing the factory in question.

Mr. Loewe said today that the factory is in operation in 4513
all departments and the force of employes is being gradually increased."

Mr. Merritt:

I will now read from the Danbury Evening News of Thursday, December 4, 1902.

"Unionizing a Factory.

Arrangements between Millard & Co. and Union about completed.

Arrangements for the unionizing of C. Millard & Co.'s hat factory have nearly been completed. It is now expected that the factory will open as a union one Monday morning. Negotiations to this end have been going on for several weeks. 4514
All arrangements affecting the trimming department have been made and at a meeting held yesterday afternoon those of the finishing department were completed satisfactorily. A meeting between the members of the firm and the officers of the Hat Makers Association will be held this evening, when it is expected that the arrangements regarding the making department will be arrived at.

This will complete all arrangements and the union label will be placed in the factory in order that the factory may be under operation as a union one Monday morning." 4515

Mr. Davenport:

Now, your Honor, Mr. Gompers stated the other day that he testified from his recollection subject to correction, that there had never been a boycott declared by the American Federation of Labor without the previous approval of the executive council after investigation, and I have taken the trouble to run through these reports for a number of years.

The Court:

What do you propose to read from?

Mr. Davenport:

I propose to read now from the proceedings of the Con- 4516
vention of the American Federation of Labor.

The Court:

Well, in rebuttal of the evidence offered by the defendant?

Mr. Davenport:

Yes, your Honor.

The Court:

Well, it being out of time, or the fact that it is out of order, is waived, we will hear it.

4517 Mr. Mulholland:

May we have our exception to all these matters Mr. Davenport intends to read here so we will not have to interrupt each question?

The Court:

Yes.

Exception taken generally to this testimony.

Mr. Davenport:

The Roeloff resolution which has been read appears in the report of William P. Bailey, and in the report of John Moffitt, and is supplemented in these circulars that are pub-
4518 lished in San Francisco, and your Honor will remember that it states that this Loewe & Co. are on the unfair list of the American Federation of Labor, and it was before the convention and his report is on page 221.

On page 219 immediately proceeding it occurs this passage:

"Resolution No. 6—By Henry Fischer, and John Witzel, Delegates Tobacco Workers' International Union:

Whereas, The Tobacco Workers' International Union have been and are still engaged in a severe contest with the American and Continental Tobacco Companies, commonly
4519 known as the "Twin Tobacco Trust;" and

Whereas, said Trust controls a large proportion of the output of the tobacco industry, thus making it difficult for the tobacco workers to successfully push a boycott against each individual brand made by the trust; therefore, be it

Resolved, That the American Federation of Labor, through its officers and organizers, give special aid and assistance to the Tobacco Workers' International Union in pushing a boycott against each individual brand, and all brands of tobacco made by both the American and Continental Com-
4520 panies; and, be it further

Resolved, That the American Federation of Labor request all affiliated unions to assist the Tobacco Workers' International Union by vigorously pushing a boycott against all brands of tobacco sold in their localities made by the American and Continental Tobacco Companies.

Your Committee recommends the adoption of the resolution.

Report concurred in.

Now in the Convention of 1900, the year before, I find on page 161 some resolutions and I read from the first column,

report of the proceedings of the American Federation of Labor on Resolution No. 103. 4521

On resolution No. 103, by Delegates Fischer and Witzel:

Whereas, The Lovell & Buffington Tobacco Company, of Covington, Ky., have forced upon their employes such unjust conditions that they were compelled to resort to a strike; and,

Whereas, The said Tobacco Company, having cut down the wages of some of said employes, have refused to restore same, or to allow the matter to be arbitrated, as per the request of the Tobacco Workers International Union; therefore, be it

Resolved, That the American Federation of Labor, in convention assembled in Louisville, Ky., place the seal of their disapproval upon the action of the Lovell & Buffington Company, and place their brands of tobacco upon the unfair list; and be it further 4522

Resolved, That all members of organized labor assist in pushing the boycott on the brands of the Lovell & Buffington Tobacco Company and use their influence against the unfair product.

Your committee recommends that this resolution be referred to the Executive Council.

Agreed to.

And on the same page resolution No. 102. 4523

On Resolution No. 102, by Delegates Fischer and Witzel:

Whereas, The Tobacco Workers International Union have been, and are still, engaged in a severe contest with the American and Continental Tobacco Companies, commonly known as the "twin tobacco trusts"; and

Whereas, Said trust controls a large proportion of the output of the tobacco industry, thus making it difficult for the Tobacco Workers to successfully push a boycott against each individual brand made by the trust; therefore, be it

Resolved, That the American Federation of Labor, through its officers and organizers, give special aid and assistance to the Tobacco Workers in pushing a boycott against each individual brand and all brands of tobacco made by both the American and Continental Tobacco Companies; and, be it further 4524

Resolved, That the American Federation of Labor request all affiliated unions to assist the Tobacco Workers by vigorously pushing a boycott against all brands of tobacco sold in their localities made by the American and Continental Tobacco Companies.

4525 Your committee reports favorably upon this resolution.

Now the report of the proceedings of 1898 at pages 85 and 99. It will read from the top of page 85, first column, report of the proceedings of 1898.

"Resolution No. 119—By Delegate P. F. Doyle.

Whereas, The Chicago Federation and the Illinois State Federation of Labor were forced to place a boycott upon the product of breweries in the city of Chicago, because of the autocratic position taken by the boss breweries that they would not treat with organized labor; therefore, be it

4526 Resolved, That this convention endorse the boycott and the names of the Chicago Breweries be taken from the fair list of the American Federationist.

Referred to Committee on Labels and Boycotts.

Now, the report of the committee on labels and boycotts is found on page 99 in the first column near the bottom:

"Delegate Elderkin for the Committee on labels and boycotts reported as follows:

On Resolution No. 119, the committee report favorably adopted."

Mr. Davenport:

4527 I have already read from Mr. Phillips' report in 1896 three years after that provision appeared in the constitution, this action of the convention in the cases cited.

Mr. Merritt:

I will now read from the South Norwalk Evening Sentinel for August 10, 1900.

"Orange Hatters May Parade."

The Newark Evening News of Wednesday evening said:

According to reports final details in connection with the settlement of the strike in the hat factory of F. Berg & Co. on Forest St., Orange Valley, have not yet been agreed to by both

4528 the firm and the representatives of the Union Journeymen's Hatters. There is, however, hardly any doubt that these details will be satisfactorily arranged this afternoon.

The members of the Berg firm and National President, John A. Moffitt, of the United Hatters of North America, with the officers of the Orange Association, were in conference last night and this morning, but no information was given out.

It is said that the most important point in dispute is in regard to how many men who went "foul" will be given union cards.

A union hatter is known in the trade as a "fair" Journeyman. From what can be learned the Berg firm will want nearly 100 of their men to get union cards. 4529

The Journeymen had great rejoicing yesterday afternoon and last night because of the settlement of the Berg strike, and there is a movement on foot, if the officers of the union will give their consent, to have a parade through the principal streets of Orange and Orange Valley on Saturday. Another report in circulation in the hatting district is to the effect that Eugene V. Connett & Co. whose large factory is in South Jefferson St. near the Berg plant, will soon make its place union. At the present time the factory is an "open" shop which means that both union and non union men can work there. 4530

The Connett firm is next to the largest to the Bergs in the hatting industry, and to have it a union factory means a great deal to the Union Hatters. This will also be a special honor for National President Moffitt who successfully handled the Berg strike which was one of the most bitterly contested in the history of the trade in Orange Valley, having lasted for ten months."

Court adjourned until 10 A. M. Thursday.

Thursday, September 19th, 1912,
10:00 A. M., Morning Session. 4531

Mr. Merritt:

Shall I proceed, Your Honor?

The Court:

Yes.

Mr. Merritt:

I am now reading from the South Norwalk Evening Sentinel, for August 14th, 1900:

"Orange Hatting Affairs. A number of union men have been shopped at Berg's hat factory in Orange Valley, and it is now considered that the place is thoroughly unionized. There are, however, a number of non-union men employed there, but it is said the firm will be in a position to let these men go within two weeks, by which time over two hundred and fifty union men will be, it is said, at work in this factory. 4532

"It is reported that the factory E. V. Connett & Co., Orange Valley, which is now an open factory, will go fair. The union hatters in the Orange District are much pleased over the fact that the Mercy Factory in Newark is now being operated on a union basis. It is reported that this firm, which does a very large business, does considerable work for the Bergs."

4533 I now read from the South Norwalk Evening Sentinal for August 15th, 1900, page 1:

"Hatters on strike. To make Connett Factory at Orange fair instead of open. Union men at Berg Shop. One hundred and fifty said to be at work, and as many more expect to be shopped by tonight. The National Board of Officers of the United Hatters of North America yesterday ordered a strike in the hat factory of Eugene V. Connett & Co. at Orange, N. J. The strike is ordered for the purpose of making the factory a fair instead of an open shop as it is now. A fair
4534 shop is one in which only union men are employed, while an open shop employs both union and non-union men. The Connett Factory employs over three hundred men. The union men now claim to have a hundred and fifty mechanics at work in the Berg factory, and by tonight they expect to have as many more. It is said that the non-union men who were not given cards by the union when this strike was settled last week are gradually leaving of their own accord, and it is now believed that there will be no trouble in having all the non-union men quit work in this place. It was at first thought that some of the Italian workmen who had filled the strikers' places would give the firm some trouble before consenting to go out, but thus far
4535 there has been no trouble, and both the firm and the union officers do not expect any."

I now read from the South Norwalk Evening Sentinal for August 16th, 1900, page 1:

"More hatters strike. Trouble over bill of prices in another Orange factory. Berg makers quit work. National Officers may effect a settlement. Union officers decide to boycott goods made by Connett & Co. A strike was inaugurated yesterday in the hat factory of Brennan & Carr, in Wallace Street, Orange. Sixty men employed in the making department went out.

4536 "Every year the employees and the firm arrange what is known as a bill of prices. This year the men demand an increase in wages, which the firm is not disposed to grant. This is the cause of the strike. The officers of the National Board of the United Hatters of North America will try to effect a settlement of the dispute today.

"In the hat factory of Frederick Berg & Co., where the men have recently returned to work after a successful strike which lasted six months, another misunderstanding has arisen. The makers quit work yesterday. The nature of the trouble

has not been disclosed. It is understood that the national officers of the Hatters' Union will be called upon by the men to try to arrange the difficulty. 4537

"The officers of the Hatters' Union have decided to boycott all goods manufactured in the hat factory of Eugene V. Connett & Co. Although a boycott has been proclaimed against the Connett factory, it is stated that unionists will be allowed to work there along with non union men, the establishment being run as an open factory where both union and non union men are employed."

I then read from the South Norwalk Evening Sentinal for September 4th, 1900, page 2: 4538

"Big factory unionized. Establishment of Berg & Co. in Orange opens as a union shop. It is officially announced that on and after today the big hat factory conducted by Fred Berg & Co. will be operated exclusively by men who had fair checks, says the Newark News.

"The fight against the Bergs continued for ten months, and during that time it is said the firm lost over $200,000 and the Union almost half that amount.

"The firm employs about seven hundred men, and Mr. Moffitt says there will be places for about a hundred good men on Tuesday. 4539

"The Union is continuing its boycott on all goods made at the Connett factory. Mr. Moffitt returned from a missionary trip to the Danbury, Conn., Hatting District, Friday. It is said that he was on business in connection with the Connett factory. It is also reported that Mr. Moffitt will make a final effort to get the Connetts to unionize their factory in a few days, and if the firm refuses a fight will be made with more force than is now employed. Some believe that the Connett firm will finally yield, while others say that they will hold out like the Bergs did."

I will read from the South Norwalk Evening Sentinal for September 7th, 1900: 4540

"Union Hatters return to work. Men who left the Berg factory at Orange Valley go back temporarily. With the exception of probably a half dozen men, the union hatters who quit work in the factory of Fred Berg & Co. in Forest Street, Orange Valley, Tuesday morning, returned to work Wednesday morning. The men had a conference and voted to remain at work until Friday night, when the Orange Association of the United Hatters of North America will hold its regular

4541 quarterly meeting. It is said that the Berg matter will possibly be settled at this meeting, and that a thorough explanation will be made concerning the terms of the proposed settlement.

"The Bergs claim that they have discharged more non union men than they had originally agreed to do when the question of settling the strike was first spoken of, and declare that they are in nowise at fault at the present time. On the other hand it is alleged by the union, that the firm when it came to settling the final details of the agreement on Sunday last

4542 wanted too many foul men to get fair checks.

"The Bergs have not yet been given the use of the union label, and the President of the Orange Association of the Union Hatters, Richard Savage, said this morning that there was no intention of putting the label in the factory until the place was thoroughly unionized. He had no doubt, he said, that the factory would be made fair.

"The union is still carrying on its boycott against all hats made at the Connett factory, and the firm continues to insist that it will not unionize its factory."

This article is headed:

"Union Hatters Return to Work. Men who left the

4543 Berg factory at Orange Valley, go back temporarily."

Then I will read from the South Norwalk Evening Sentinal for September 24th, 1900:

"Scarcity of union hatters. Work for three hundred men in Orange, N. J. District. A special dispatch from Orange, N. J. says: hatters of this city are jubilant over the victory won last week by the United Hatters of North America in the surrender to that organization of the big hat firm of R. V. Connett & Co. of Orange Valley. With the unionizing of the Connett factory there is not a foul

4544 or open factory left in the Orange District. In hatting parlance, a foul factory is one that has been fair and has refused to employ union men. It was announced Saturday that the Connett factory would become unionized today. About seventy-five non union employees of the firm are to be admitted to the union upon payment of fine aggregating about $4,000.

"For the first time in years there is a scarcity of hatters in the Orange District, and manufacturers are hard pressed to secure competent workmen to fill their orders, which are unusually heavy.

"An Orange Valley manufacturer said: 'There is work in the various factories in the Oranges for fully three hundred men than are now employed, and there are not enough Union men in the District to supply the demand.'" 4545

And I will read from the South Norwalk Evening Sentinal for August 7th, 1902, on page 3:

"The Board of Directors of the United Hatters of North America was in session in Danbury yesterday. While the special object of the meeting was the Loewe matter, only routine business was transacted at the meeting. There are no new developments in the difficulty between D. E. Loewe & Co. and the union." 4546

I then read from the South Norwalk Evening for August 23rd, 1902, page 4.

"Hatters leave Danbury. Sixty five of Loewe Company's employees go to other districts.

"About sixty five hatters, former employees in D. E. Loewe & Co.'s factory left town Wednesday for other hatting districts. A dozen went to Yonkers, several went to Philadelphia and the rest went to New Jersey. These men were thrown out of employment by being called out from the factory by the officers of the United Hatters of North America, which announced its intention a short time ago of unionizing the factory in question. 4547

"Mr. Loewe says that the factory is in operation in all departments and the force of employees is being gradually increased."

And I read form the South Norwalk Evening Sentinal for Thursday April 10th, 1902, on page 1:

"United Hatters sued. H. H. Roelofs of Philadelphia wants $250,000 damages. Several Norwalk and Danbury men are defendants in a suit for $250,000 damages brought by Henry H. Roelofs the Philadelphia Hat Manufacturer against the officers and Board of Directors of the United Hatters of North America. James H. Maher of Danbury is Treasurer of the Association; Patrick Lawlor of Bethel is Vice-President and Charles H. Barrett and Martin Gorman of Danbury and William Brennan, Secretary of the Hat Makers Association of South Norwalk, are members of the Board of Directors. The Board of Officers and the Directors number 15, and they are the defendants in the suit which has been brought in the United States Circuit Court. 4548

4549 "In the complaint it is alleged that the Hatters' Association entered into conspiracy to injure the complainant's business by circulating disparaging circulars, accusing a libel to be printed in Hatters' Journal and boycotting his goods. In the complaint, one instance in which the union prevented the complainant from making a sale of a bill of goods amounting to $100,000 is cited.

"The local officers who are involved in the case were unable to give much information in the matter today, as Secretary Phillips of Brooklyn is the chief defendant and no official notice has yet been received here. The suit 4550 is the result of the efforts of the hatters to make the Roelofs factory a union one by inducing jobbers and retail dealers to handle only hats bearing the union label. The hatting officers announce that they will contest the suit to the end and are confident of success."

Then I will read from the Evening Sentinal for June 2nd, page 6 under the head of

"Hatters Acquitted. Decision in an interesting Philadelphia case. Judge Bregy in Quarter Sessions Court today ruled that employees have a right to strike whenever they have a grievance. 4551 He also ruled that strikers may be held liable if they induce indentured apprentices to strike. Nevertheless, two defendants, Jesse Haines and John Wilson, charged with conspiracy, by the H. H. Roelofs Company, were acquitted by the jury.

There are many interesting points in this case, for the reason that the two defendants are members of the United Hatters of North America, a union which called a strike against the Roelofs firm about one year ago, and against which the firm has now pending a libel suit for $250,000, because of a boycott."

Then I read from the Evening Sentinal for June 12th, 4552 1902, page 1. "Hat Finishers' Association. Fines will be imposed upon any member purchasing non-union goods. The Norwalk Hat Finishers' Association held its regular meeting last night in G. A. R. Hall. The regular monthly business was transacted, and a resolution was passed imposing a fine for any member of the Association who purchases non-union goods when it is possible for them to buy goods of the same description bearing a union label; or who shall patronize a place of business which has been decided unfair by the Central Labor

Union of the Town, or by any other labor organization of the town." 4553 81

Mr. Merritt:

I read from the Evening Hour, of Norwalk, Conn., for January 19th, 1900:

"Hand All Trumps. Sidelight on the recent Volk & Co. strike. How the hatters won. Concerns' closing up shop lead very skilfully blocked. Union label taken away. Secretary Golden of the Hat Makers' Association writes of the trouble. Intercession by the National Board. The January number of the Journal of the United Hatters of North America has this contribution from M. J. Golden, Secretary of the Hat Makers' 4554 82
Association: Trade in the direction of South Norwalk is very good just now. The only shut down we had was Thanksgiving week, when the greater number of factories closed down to take inventory. A very important discovery was made by the National Executive Board in relation to Volk & Co. doing business with Berg & Co. It seems that Volk & Co. was selling the Berg soft hat in connection with their own production and leading their customers to believe that the label was used only for stiff hats. After the matter was discovered two of our National Officers, Mr. Lawlor and Mr. Maher came to South Norwalk and laid the case before the local Executive Board. 4555 83
They stated that the Volk Company was doing business with Berg & Co., and by so doing was helping one of the greatest enemies of fair labor to win a victory from the United Hatters of North America. A majority of the local Executive Board decided to leave it in the hands of the National Executive Board. We having full confidence in the statements made by the National Committee, and knowing a vigorous measure was necessary at the time, the only thing that could be done was to take the label from the Volk factory; and if that action was not sufficient to bring terms of peace, then the last means would have been resorted to. That is to say the help would have been 4556 84
called out; but to evade the situation the Volk Co. shut down their factory. They claimed that they would not do business without the label. They promised to sever their business relations with Berg & Co. as soon as possible.

"I would say on behalf of the National Committee that they came several times to Norwalk on the Volk case and showed great patience, consulting the local officer, and using all diplomacy to bring about a peaceful settlement of the strained relations between the Volk Hat Co. and the United

4557 Hatters of North America. When the National Executive Board came to Norwalk and discussed the matter with the local officers pro and con, it was decided that the two directors from the district, Mr. Haugh and Mr. Sculley, wait on Mr. Volk and take his statement. Mr. Volk claimed that he was through doing business with Berg & Co., and wished to get the label placed back in his factory. Mr. Haugh and Mr. Sculley waited on the National Executive Board and submitted Mr. Volk's statement. There was a meeting of the local Executive Board called. Mr. Haugh and Mr. Sculley stated the conditions that the Volk Co. would receive the label. The conditions were ac-

4558 cepted by the Local Executive Board and the label restored to the factory. We are all glad that we have no manufacturer in the District of South Norwalk helping Berg & Co. If we have, and we find it out we will attend to their case."

I will read from the Norwalk Hour for August 18th, 1900, page 1: "Wore Non-Union Hats. An oversight made it necessary for two hatters to pay fines. There are two Danbury union hatters who will in the future be very careful to wear only union made head gear. Wednesday morning a well known hatter was held up by several of his fellow workmen as he

4559 entered the shop and his hat was taken off his head and examined, with the result that it was discovered to be non-union made. A fine of $2.00 was assessed against him and he was compelled to pay it before the men would allow him to go to work. Afterwards he started to get satisfaction and instituted a search for non union hats, but failed to find one in the whole factory. On the day previous one had been found in the same shop worn by one of the workmen, who was also fined $2.00, which fine he paid before he was allowed to go to work."

And I read from the Norwalk Hour for August 9th, 1901.

"James P. Maher, President of the Danbury Hat Makers'

4560 Association has returned from Philadelphia, where he has been for several days attending a meeting of the General Executive Board of the United Hatters of North America. The principal business that came before the meeting was the question of unionizing the Roelof factory in Philadelphia. Mr. Maher stated that the factory would undoubtedly be unionized in a short time."

And I read from the Norwalk Hour for July 28th, 1902: "After Loewe factory. Hatters' Union will attempt to unionize the Danbury plant. The United Hatters of North America which has recently unionized several of the largest hat fac-

tories in the country, has transferred its operations to Danbury and announces its intention of unionizing the factory of D. E. Loewe & Co. President Moffitt, Vice-President Lawlor and Treasurer Maher went to the factory and ordered all union men employed there to quit work. The men did immediately as instructed, and the factory is now shorthanded in all departments. 4561

Mr. Maher said that it is the intention of the union to make the factory union in a short time. The number of men removed was about fifty. When the union men stopped work but nine men remained in the sizing room, and these were induced to stop work afterwards." 4562

Then I read from the Norwalk Hour for July 29th, 1902, page 3.

"The Loewe matter. Situation between Danbury firm and union unchanged.

"The situation at the factory of D. E. Loewe & Co. in Danbury, which the National Hatters' Union propose to unionize, is unchanged, says the news. A few men are working in one or two of the departments. Mr. Loewe said that he intends to keep the factory in operation and has no intention of having it made a union one.

"A hall in White Street has been put into use as a headquarters of the Hatters who have been called out of the factory." 4563

Mr. Davenport:

I first read from the proceedings of the Convention of the American Federation of Labor for the year 1889, top of first column, on page 38, a portion of the report of the Committee on Resolutions:

"The Committee report favorably on the appended resolutions offered by E. Kurzenknabe. Official List of secretaries:

Resolved that the Secretaries of all International and National Trades Unions represented in the A. F. of L., and also of all Central Bodies be instructed to report to the President every three months, a list of the addresses of the secretaries of their respective local unions; as well as to find means and ways how to send such list to all unions, or at least make the same accessible to them if they should desire to make use thereof for the purpose of sending out boycott and other circulars when approved by A. F. of L. Adopted." 4564

4565 And I read from the report of the proceeding of the Convention of the American Federation of Labor for the year 1893, on page 67, under the title "Report of Committee on Labels and Boycotts, continued. Supplementary recommendations.

Taking into consideration the vast extent of territory comprising the United States, we believe that some measures should be taken which would make the boycotts declared at the convention effective. In order to do this some centralization of effort must be made in the various localities directly interested in the several boy-

4566 cotts, as such effort as would secure the desired results in one location would be so much waste energy if applied in another; therefore

Resolved that the National bodies represented in the American Federation of Labor be requested to center on a few of such firms as can be most effectively worked upon in the Eastern, Middle, Southwestern and Pacific Coast States; further,

Resolved that the Secretaries be instructed to forward names of such firms to the Trade Papers which in their judgment will be most effective in the dissemination

4567 of such news as will tend to accomplish the end in view.

Moved to concur in report of Committee. Agreed to."

Now I want to read from the proceedings of the Convention of the American Federation of Labor for the year 1904, on pages 16 and 17, being a portion of the report of Mr. Gompers as President:

"The average membership of our affiliated unions upon which per capita tax was paid to the American Federation of Labor, for the year ending September 30th, 1903, was $1,465,800.

4568 "The original chart prepared for our St. Louis Exhibit indicated the growth and development of the Federation up to October 1st, 1903. I have extended this chart so as to bring it up to the close of the present fiscal year, October 1st, 1904, and for convenience and ready reference reproduce it on the preceding page of this report."

This is the chart (showing same to jury).

"Membership of American Federation of Labor 1881 to 1904."

This is a list of numbers and members and here are 4569
the years commencing 1881 down to and including 1904; and the cross lines show the numbers, so that at a glance is seen the membership of the American Federation of Labor.

In 1881 it was less than 50,000; in 1882 it had passed the 50,000 mark, and it reached the 100,000 mark in 1884. It reached the 200,000 mark in 1892, and in 1896, which is the year when the United Hatters became affiliated with it, it had 250,000 plus. The next year it dropped off a little and then in 1899 it was almost 400,000. In 1900 it was almost 550,000. In 1901 it was nearly 800,000. In 4570
1902 it was past the million mark, and in 1903 it was 1,450,000. In the year 1904—that would be October 1st, 1904, it had reached over 1,675,000. This is headed "Membership of American Federation of Labor. These are described as members and that will indicate to the jury at a glance the relative and actual membership in those several years.

Now I want to read from the proceedings of the Convention of the American Federation of Labor 1887, on page 28, with reference to this matter of the label. The 4571
first column under the head "Action on Labels.

"Resolution 16, offered by E. L. Daley, as amended, was unanimously adopted, and reads as follows: Whereas, one of the greatest evils which confronts the Labor Organizations of the Country today, is the hostile influence of those persons who take the places of members of Labor Unions during time of strike or lockout: and,

"Whereas, the manufacturers of goods made by such non-union help depend largely for their success on the patronage of the laboring men and women of the country, and 4572

"Whereas various labor organizations throughout the country have adopted union labels to be placed on Union Made Goods; therefore be it

Resolved that this Federation pledge itself to do all in its power to promote and encourage the use of all labels owned or endorsed by natonal or international trades unions connected with this Federation."

4573 And I read from page 22 of the Proceedings of the Convention of 1888, being the concluding portion of the report of the Committee on Labels and Boycotts:

"Furthermore, your committee recommends that every member of the American Federation of Labor be urged in the strongest manner to purchase none but union made goods and demand union label goods upon all occasions."

Signed by Chairman and Secretary. And the report the following day was adopted.

4574 "The latter part of the report of the Committee on Labels and Boycotts." This is from page 23: "Giving expression as to the reasons and necessity for union labels and boycotts, was adopted. The report of the committee was then adopted as a whole."

And I now read from page 54 of the Proceedings of the Convention of 1896: and I would call the attention of the Court and our friends on the other side to the fact that this was six years after the Sherman Anti Trust Act became a law; which has been in force ever since.

Mr. Mulholland:

4575 In force, did you say, or enforced? It was about eleven years before it was enforced.

Mr. Davenport:

No, Mr. Gompers was complaining that it was enforced the very next year, and he never ceased to chafe under its enforcement either; but Mr. John Phillips, Secretary of the United Hatters, introduced this resolution and was on the committee that reported it, and I ask particular attention now to the terms of it with reference to the subsequent use that was made of it:

4576 "Whereas the Hat Finishers' International Association and the Hat Makers' National Association have recently been amalgamated in the one organization, to be known as the United Hatters of North America; and, whereas, this amalgamated body will now have full authority and jurisdiction over the felt hatting trade, and over the hatters' union label; and we are now taking steps to place the label in a position where it will be still more effective than it has been in the past; therefore, be it

"Resolved that the delegates here assembled do most sincerely and emphatically endorse the label of the United Hatters of North America; and we call upon all affiliated

unions of the American Federation of Labor to support 4577
the latter's in every way possible. Resolved that the most effectual way to support the label is to refuse to purchase any fur or felt hat that has not a genuine label stitched into it.

"Resolved that we hereby pledge ourselves to uphold the United Hatters of North America in their efforts to make their label a success; and we also pledge ourselves not to buy or wear any fur or felt hat, either soft or stiff, unless the genuine union label is stitched into it. Recommend its adoption. Aproved."

I read from the proceedings of the Convention of 4578
1899, and first I will read from the report of the Secretary on page 23: "Every central body that is in any way active has a label committee, whose duty it is to visit the different firms and secure their promise to handle labeled goods. In many cities the label committees have succeeded in creating a healthy demand for union products."

And from pages 160 and 161 of the report of the proceedings of the same Convention, 1899:

"Resolution No. 145, by Delegate Harry W. Wilson:

Resolved that it be the sense of the American Fed- 4579
eration of Labor that we recognize no article as union made unless said article bears the union label of the organization of the workingmen by whom it is produced. Committee report favorably. Adopted."

This resolution was reconsidered and Delegate Tobin offered the following substitute for the report of the Committee: "Resolved that any product represented to be union made shall not be considered union unless it bears the label of the craft producing such commodity.

"Delegate Morrison seconded the motion to adopt the 4580
substitute. Adopted."

Now I come to the convention of 1902, which was attended by James P. Maher, as delegate from the United Hatters, and he served upon the Committee on Labels, and that Committee reported the following resolution.

"Resolution No. 56, Whereas, whilst the men, as a rule, are the wage earners of the family, yet the wives and daughters generally have the spending of most of such earnings, and unless union men explain to their families the importance of purchasing only union made goods,

4581 of which the union label is the only guarantee, they are liable to purchase scab and penitentiary made goods, therefore be it

Resolved that in order to make the campaign for the union label more effective, at all meetings of Local Unions and Central Bodies at least fifteen minutes of time be given to the consideration of union label matters; and be it further resolved that all union men are requested to endeavor to induce their wives, daughters and female relatives to join or organize women's union label leagues. Committee

4582 reports favorable. Adopted."

And now I read from the proceedings of the Convention of 1903, on page 118. Mr. James P. Maher was delegate to that convention and he served upon the Committee on Labels, and that committee reported the following resolution, which was adopted.

"Report of Committee concurred in.

"Whereas while the increased demand for union label goods is gratifying, yet, taking into consideration the enormous growth in the membership of organized labor, it is not what it should be; and believing that the main

4583 cause for there not being a greater demand is from the want of proper education of trades unionists on the duty and obligation of every unionist to purchase only union made goods, and from not knowing that only by using their purchasing power as consumers, can convict, child and sweat shop labor be wiped out; therefore be it

"Resolved that it is the sense of this convention that all union men and women owe it as a duty to themselves and their class that at all times they be consistent and demand the union label; and all affiliated national organizations that have not already done so are earnestly re-

4584 quested to incorporate in the ritual and obligation that their members must demand the union label; and organizers when installing newly organized unions are requested to thoroughly explain to members before obligation, their duties as to demanding the union label; and be it further

"Resolved that the attention of all international unions having labels is called to the advisability of making arrangements with the labor press of this country for systematically advertising through their columns and keeping before the eyes of their readers the emblems trades union-

ists and sympathizers are required to call for. Committee on Labels reports favorably. Report of committee concurred in." 4585

And the following:

"Resolution No. 35. Whereas the Retail Clerks International Protective Association has been formed to improve the condition of the wage workers, and

Whereas it is affiliated through the American Federation of Labor with the General Trades Movement, and

"Whereas it is the plain duty of every member of a Labor Union to call for the up-to-date Clerks' Union Cards when making a purchase, and compel the clerk to show his card before buying from him or his employer, be it 4586

"Resolved that the Convention of the American Federation of Labor endorse the card of the Retail Clerks' International and Protective Association and appeal to every member and sympathizer to demand the same. Committee on Labels reports favorably. Report of Committee concurred in."

And at the same convention, on page 203, the following resolution was report and adopted: 4587

"Delegate Ryan, for the Committee on Resolutions, continued his report, as follows: Resolution 192,

"Whereas the union label is not patronized by organized labor as well as it should be, and

"Whereas the merchants that handle union made goods and employ union clerks complain that union men as a rule do not ask for the union made products; therefore be it

"Resolved by the American Federation of Labor in Convention assembled, that all international organizations and federal unions attached to the American Federation of Labor have their obligation amended so as to read as follows: "And I do further solemnly promise on my word of honor that I will patronize only strictly union made goods and that I will use my best endeavors to do the same; and that if I should become faithless to my obligation may I then be expelled from the union. 4588

"Committee on Resolution report favorably. Report of Committee concurred in."

4589 Mr. Merritt:

Are you ready to go on with the cross examination?

Mr. Mulholland:

Yes.

CROSS EXAMINATION OF

DIETRICH E. LOEWE,

Continued by Mr. Beach:

Mr. Beach:

4590 By consent of Counsel I am permitted to cross examine Mr. Loewe on the question of damages so far as it is possible for us to go.

Q. Mr. Loewe, I understand, in the first place, that up to the 25th day of July, 1902, there is no claim of interference with your business by these defendants? A. That is right.

Q. That is right. Now you have filed here, or there has been put in evidence here a schedule showing the amount of business done with your different customers in the calendar years from January 1st, to December 31st, of each year 1900, 1901, 1902 and 1903. Now it is true

4591 then that so far as the calendar year 1902 is concerned that down to substantially August 1st, 1902, what other business you did with those customers in that year was done free from any interference on the part of these defendants? A. Up to July 25th, yes.

Q. Well, substantially August 1st? A. Yes, but there were five days shipments that were interfered with.

Q. That is so far as there was any interference with on the matter of cancellation. The cancellations don't come in yet, and they didn't amount to very much any-

4592 way, did they? A. I guess they did.

Q. I am going to call your attention now, which for convenience I am obliged to call from January 1st to August 1st, 1902—I want to compare the business with certain customers which you did in the year from January 1st to August 1st, 1902, with the business that you did with those same customers for the same period in the year 1901. You have allowed us to examine a book entitled "Sales Ledger D" of D. E. Loewe & Co., and I want to call your attention to some entries in that book. Now that book contains, as I suppose, the names of your cus-

tomers and the actual shipments that you made to them from day to day in dollars and cents for each day and with the total in pencil that is sometimes a little indistinct, of the amount of shipments in dollars and cents that were made to those customers in each month? A. Yes, sir. 4593

Q. That is right? A. That is right.

Q. So that by examination of that book we can tell, for example, how much business Wechsler, Laufer & Co. did between January 1st and August 1st, 1901, and how much business they did between January 1st, 1902, and August 1st, 1902, before your business was interfered with? A. Yes, sir. 4594

Q. Now will you turn to Wechsler, Laufer & Co.? A. I have it.

Q. You have it for the year beginning with January, 1901? A. Yes.

Q. That I think you will find in the very earliest part of the book; see whether I read the figures correctly, the amount of shipments? A. Just a moment (looks over the page). Yes, January, 1901.

Q. January Five Thousand Two Hundred and Four, Twenty One. 4595

The Court:

Dollars and cents?

Q. $5204.21? A. Yes, sir.

Q. February 1st, $3411.35? A. Yes, sir.

Q. March $4,401.39? A. Just a moment, Mr. Beach, I guess that is right. There was no figure there.

Q. You did the same as I did when I couldn't read the figures I added it up. Now that brings us down to April 1st, 1901, $2679.30? A. Yes, sir.

Q. May 1901, $1043.08? A. $1943.08.

Q. Oh, then I made an error in that so that I have that total $900, too small, eh? Well, then you have to turn over now to page, I think about 48? A. 26, I guess, 26, Mr. Beach. 4596

Q. Wechsler, Laufer & Co.? A. Yes.

Q. And for the month of June, 1901, $5866.84? A. Yes, sir.

Q. And for the month of July, 1901, $1914.25? A. Yes, sir.

4597 Q. Now can you turn in that book to the corresponding months in the year 1902—oh, wait a moment. I would like some way to get on the record here the total of the seven months business with Wechsler, Laufer & Co., from January 1, 1901, to August 1, 1901?

The Court:

Have you got it figured up?

Mr. Beach:

I have got it figured up, and with the correction we made, subject to correction from somebody else hereafter it figures out $27222.52.

4598 Now I want you to turn to the corresponding period for the year 1902; have you got it now for January, 1902? A. Yes, sir.

Q. $1948.99? A. Yes, sir.

Q. February 1902, $2265.84? A. Yes, sir.

Q. For March, 1902, $1775.64? A. Yes, sir.

Q. For April, 1902, $1753.26? A. Yes, sir.

Q. For May, 1902, $1300.72? A. Yes, sir.

Q. Now turn to June, 1902, which will be over at 64? A. 46.

4599 Q 46 is it? A. Yes, sir.

Q. For June, 1902, $1754.68? A. Yes, sir.

Q. July, 1902, $2232.50? A. Yes, sir.

Q. I make that total, Mr. Loewe, subject to correction $13,031.63, for the first seven months of 1902, as compared with $27,222.52 for the corresponding period in 1901? A. Six months.

Q. Seven months? A. Was it? Oh, yes, seven months, that is right.

4600 Q. So that if these figures are right, Mr. Loewe, it appears that so far as Wechsler, Laufer & Co. are concerned your business had already fallen off with them in the sum $14190.89 before you claim that the defendants interfered with your business at all in 1902; is that right, assuming that my addition is correct? A. According to the books, yes.

Q. Did Wechsler, Laufer & Co., so far as you know, cancel any orders in 1902 prior to the strike? A. Not so far as I know. Possibly they might have cancelled an order here or there. I think so.

Q. They did business in what part of the country, Wechsler, Laufer & Co.? A. A great deal in the south, in New England States and also in the Middle States. 4601 09

Q. So that their business covered a very large territory? A. Yes, sir.

Q. And I presume they had a considerable number of customers? A. I suppose so, yes.

Q. I mean customers to whom your hats— A. Yes, it was an old house and they had a good many customers; at least they told me that.

Q. As far as you know your hats were widely scattered through them over this general area? A. Yes. 4602 10

Q. Not concentrated to any particular spot? A. No.

Q. Do you know, of your own knowledge, of any special reason why their business fell off $14,000 in 1902 before the strike? A. Yes.

Q. Why? A. The spring business wasn't quite as good and they had bought largely the previous fall and they didn't buy quite as much for the spring trade. You see they are jobbers.

Q. I see? A. And they order goods to fill from the stock, and they order special goods and if the spring season is light the fall season is— 4603 11

Q. (Interrupting.) I am not asking you for what is usual? A. Oh, pardon me.

Q. Because I would rather get at the facts and then we will draw the inference. I now understand you, Mr. Loewe, to say that the reason why Wechsler, Laufer & Co. didn't buy as many goods in the first part of 1902 as they did in the first part of 1901 was that business wasn't as good in that year; is that right? A. I couldn't say that. They didn't buy as many goods.

Q. I thought you did say that? Didn't you intend to say that? A. That the spring business wasn't quite as good? A. Yes, that is right. Not quite as good. 4604 2

Q. You say not quite as good? A. Well, according to our business it wasn't quite as good as the two previous years.

Q. As far as that particular time was concerned it was just about half as good as it was the year before, wasn't it? A. I couldn't say that.

4605 Mr. Beach:

I beg your pardon, I am asking you to confine yourself to this particular customer; your business with him was about half as good in the first half of 1902 as compared with the first half of 1901? A. Yes, just about.

Q. Where can we find, Mr. Loewe, the orders which Wechsler, Laufer & Co.—the volume of orders which Weschler, Laufer & Co. had on hand with you at the time of the strike? A. We have the order book here; I think you will find them on the books here.

4606 Q. Well, how much work would it be to find out the Weschler, Laufer & Co. orders that were upon hand with you on the first of August, or July 25th, whichever you please, 1902? That can be shown, can it? A. Yes, I think so.

Q. Now, I suppose, Mr. Loewe, these large jobbers employed expert buyers, didn't they? A. I presume so.

Q. Well, as a matter of fact, Mr. Brown was their buyer; he was? A. Yes. He was a member of the firm.

Q. He was, in your judgment a discriminating buyer, wasn't he? A. Yes, sir.

4607 Q. Looking for values? A. Yes, sir.

Q. In the goods that he bought? A. Yes, sir.

Q. You heard Mr. Montague testify here, didn't you? A. Yes, sir.

Q. Wasn't it Mr. Montague who testified that the inferior quality of the goods that he received from you after the strike materially affected his sales to customers? A. I didn't know that he did. It is the first I heard.

Q. It may have been Mr. Middlekauff who said that?

4608 The Court:

I think some witness stated something like that.

Mr. Beach:

I am referring to the record of the previous trial. I haven't before me the minutes of the present.

Witness:

I remember that he testified to that effect.

Q. He did; he testified to the effect that the inferiority of the goods which you furnished him subsequent to the strike materially affected his sales to customers? A. Yes.

Q. And it was a fact Mr. Loewe, was it not, that goods which you were able to furnish to Wechsler, Laufer & Co. after the strike were comparatively inferior? Mr. Beach— **4609**

Q. Will you answer? A. There are some of them were not right and some of them were; that is the way the conditions were.

Q. They didn't run evenly, eh? A. They didn't run uniform, and where they were very poor I rejected them and sent them back before they went out.

Q. Do you mean to say, Mr. Loewe, that except those which you rejected and sent back, all of the hats that you sent to Wechsler, Laufer & Co. were as good as the former goods that you had been supplying them with? A. I say that some of those poor goods went out but not all of them were poor, nor did I ever hear Mr. Brown finding fault with any goods that went out. In fact, he couldn't get enough of them, and he is speaking about it today when I see him. **4610**

Mr. Beach:

I object to the declaration.

The Court:

You needn't state that. **4611**

We will take recess for fifteen minutes.

Recess.

The Court:

Proceed.

Q. You said, Mr. Loewe, just before recess, as I understood you, that Wechsler, Laufer & Co. couldn't get enough of your hats? A. That fall, yes.

The Court:

That is the fall of—

Q. That is the fall of 1902? A. Yes, sir.

Q. They were that fall asking for more of your hats than you could supply them with? A. Yes, sir; we couldn't supply them. **4612**

Q. And did that condition continue in 1903 down to the time of the commencement of this suit? A. That same condition?

Q. Yes? A. No; you remember we were not able to fill orders during the months of August, September and October; but orders that we had on hand that took

4613 us three months to fill instead of one; and that is what he had reference to.

Q. What is it you have reference to when you say they couldn't get enough of them; just that temporary condition that existed in August and September? A. In August and September there was a great demand for hats, and we couldn't supply them, and he found fault.

Q. How long did that condition continue, Mr. Loewe, that you couldn't supply hats because the demand was greater, or too great for your capacity? A. Why, I said August, September, October. Those were the

4614 months trade where the goods were wanted.

Q. Well, then, after October, 1902, you were able to supply Wechsler, Laufer & Co. with all the goods that they would take of yours? A. Yes, sir.

Q. Now don't you think that their demand for more hats was affected by the comparatively inferior or irregularity of the quality of the goods you supplied them with? A. No, sir; not at that itme.

Q. What time? A. August, September and October.

The Court:

4615 That is 1902?

Mr. Beach:

Yes.

Q. Don't you think that after October, 1902, the demand of Wechsler, Laufer & Co. for your goods was affected by the comparatively inferior or irregular quality of those that were manufactured subsequent to October, 1902? A. Why, I don't know how much there was to that—I couldn't tell you.

Q. Don't you think there was something to it, Mr. Loewe? A. Why, Mr. Beach, I don't think there was

4616 very much to it.

Q. Don't you think there was something to it? A. Well, perhaps something, I couldn't tell you; but if you understand the trade you will know that he couldn't know whether there was anything to it until the spring.

Q. Now, have you got here those orders of Wechsler, Laufer & Co.? A. Yes, I can tell you we had on hand orders of Wechsler, Laufer & Co. 193 dozen.

Q. Well, what would that amount to in dollars and cents? A. Why, I suppose they averaged about—there

were some—most of them twelve dollar goods and there is some thirteen fifty. 4617

Q. A hundred and ninety-three dozen would mean a hundred and ninety-three dollars—no, twelve times a hundred and ninety-three dollars would it? A. I think so.

Q. Now what is the fact, you tell me? A. Well, twenty-two, or three or four hundred dollars.

Q. 193 gross at wholesale prices? A. Wholesale prices.

Q. Yes, $12.00, that would be in the neighborhood of $2300; yes? A. Yes. 4618

Q. We have got the volume of your shipments to Wechsler, Laufer & Co. down to August 1st? A. Yes.

Q. Now what orders did you have on hand from Wechsler, Laufer & Co. on August 1st that were not then filled? A. 193 dozen.

Q. That is what I supposed. Now you spoke in your testimony of J. T. Asch & Co. Will you turn to their account in that book, the sales ledger? A. Yes, sir.

Q. Mr. Asch was the man that you had a conversation with, Mr. Loewe? A. Yes, sir. 4619

Q. In which he told you as a reason why he was not using so many of your goods in the fall of 1902 that his customers had been visited and demanded union label goods? A. Yes, sir.

Q. How many goods did you sell Mr. J. T. Asch in 1902, before August 1st? A. I couldn't say that.

Q. Well, suppose we take it in January, 1902; if you can conveniently find him on page 29? A. Well, that is—

Q. Page 29, you find him there; am I right about it? A. January, 1902, yes.

Q. $220.50? A. Yes, sir. 4620

Q. February, 1902, $1.75? A. Yes, sir.

Q. March, 1902, nothing? A. Yes, sir.

Q. Is that right? A. Yes, sir.

Q. April 1902, $94.50? A. Yes, sir.

Q. May, 1902, nothing? A. Yes, that's right.

Q. Now turn to page 50 for the months of June and July, 1902. Nothing in June; is that right? A. That is right.

Q. July nothing? A. Nothing.

4621 Q. So that the total business of Mr. Asch in June down to August 1st was $315.75, subject to correction? A. Yes, sir.

Q. Now let us see what his business was in 1901 for the corresponding periods, if you will look; January, 1901, you have? A. Nothing.

Q. February, $495.00? A. Yes, sir.

Q. March, $397.50? A. Yes, sir.

Q. April nothing? A. That is right.

Q. May $124.50? A. Yes, sir.

4622 Q. June $36. That will be on page 29, I think? A. June $36.

Q. $36. July $159.55? A. I don't see anything in July.

Q. Perhaps I made a mistake; July 1901, is that? A. 1901, July, he paid, but—paid something. There is a credit here but no charge.

Q. You didn't do any business? A. No charge in July. There was $159.55 in June.

Q. Oh, yes; it was in June? A. I mean $36.00.

Q. You say that $159 was a credit, was that? A. That was a credit.

4623 Q. So that the total of his business was for that period approximately $1075? A. Yes, sir.

Q. For 1901 as compared with $315 in 1902? A. Yes, sir.

Q. Then did you also say that you had a talk with a man named Gilleadeau? A. Yes, sir.

Q. He told you the same story that the reason he wasn't buying so many goods was that his customers demanded the union label? A. Yes, sir.

4624 Q. Now I guess we had better begin at the beginning with Mr. Gilleaudeau because it is easier to go straight through than it is to go back and forth. Take January, 1901; nothing? A. Nothing.

Q. February, $120? A. Yes, sir.

Q. March, $409? A. Yes, sir.

Q. April, $108.00? A. Yes, sir.

Q. May, $247.00? A. Yes, sir.

Q. June, $122? A. Just a moment.

Q. That is on page 30; June, $122.00? A. $122.00, yes, sir.

Q. July nothing? A. Nothing.

Q. And total $1006. for the seven months of 1901. Now 1902, January, $2.38? A. March—January? **4625**

Q. Yes? A. $2.38, yes, that is right.

Q. February, $36.00? A. Yes, sir.

Q. March, $109.00? A. Yes, sir.

Q. April, $144.00? A. Yes, sir.

Q. May, $73.00? A. Yes, sir.

Q. June on page 47, $147? A. Yes, sir.

Q. July nothing? A. That is right.

Q. Making a total of $511 for the first seven months of 1902 as against $1006 for the first seven months of 1901? A. Yes, sir. **4626**

Q. Then what were the names of some of those other customers you testified about having the conversation with? A. Mr. Worthley.

Q. Well, will you turn to Mr. Worthley's account? A. Yes, sir.

Q. For January, 1901—he was another customer who said he wasn't getting so many goods because his customers demanded the union label? A. Said he wouldn't be able to buy as many goods from me.

Q. Now in January, 1901, he bought $145.38? A. Yes, sir. **4627**

Q. And February $316.13? A. Yes, sir.

Q. And March $1226.50? A. Yes, sir.

Q. April $402.00? A. Yes, sir.

Q. May $281.75? A. Yes, sir.

Q. June $243.39? That is page 34? A. $243.39, yes, sir.

Q. And July nothing; that makes a total as I add it up, subject to correction $4813.15 in the first seven months of 1901. Now turn to January, 1902; is that $253.75? A. Yes, sir.

Q. February $612.00? A. Yes, sir. **4628**

Q. March $330.00? A. Yes, sir.

Q. April $385.00? A. Yes, sir.

Q. May $118.63? A. Yes, sir.

Q. June—page 49, Mr. Loewe? A. June $25.75.

Q. $25.75. July nothing? A. That's right.

Q. Total being then for the seven months subject to correction $1730.13; so that the fact is if these figures are correct that you have lost about two-thirds of your former business with Mr. Worthley for the correspond-

4629 ing period before the strike? A. If these figures are right; yes, sir.

Q. Now what other customer did you testify that you had had a conversation with? A. I think those were all that I named; or did I name—

Q. We have had Gilleaudeau, Asch, Worthley— A. Oh, Denzer of Denzer, Goodhart—

Q. Denzer, Goodhart & Scheuer. Now let me see, I won't go into the figures of Denzer, Goodhart & Scheuer because I am going to call your attention instead to the totals of his business for the years 1900, 1901, 1902 and
4630 1903, as was done on the other paper that I have copied off; that concern is another concern, as I understand, that were not buying as many goods because of the demand for the union label? A. That they would not be able to buy so many goods.

Q. They bought in the calendar year 1900, $2063; in the calendar year 1901, $5271.00; in the calendar year 1902, $8303.00, and in the calendar year 1903, $9577.00; so that their business actually increased very largely? A. Yes, sir.

4631 Q. Now do you recall anybody else that you testified about having a conversation with; is that all the customers? A. I don't remember any more, Mr. Beach.

Q. There was Brown; Wechsler, Laufer; Denzer, Goodhart & Scheuer; J. R. Worthley; J. T. Asch, and Gilleaudeau. Now suppose we turn to—who was your largest customer in Philadelphia? A. Eli Keen's Sons.

Q. There is a deposition here by Mr. Keen? A. Yes, sir.

Q. Now turn to Mr. Keen's account, January, and compare the amount of his business for the first half of 1901 and the first half of 1902 before the strike. Mr. Keen,
4632 January 1st, 1901, $34004.20? A. Not quite as much as that.

Q. What was it? A. $3404.00.

Q. Now is that so, that he only did that much business in that month? A. Yes.

Q. That was a very small month for him? A. His whole business wasn't much more than $40,000 or $50,000.

Q. Oh; my mistake, I read my own figures wrong; **4633**
$3404.20; is that right? Beg pradon, Mr. Loewe, I don't know why I made that mistake? A. That is right.

Q. And for the month of February $4878.45? A. Yes, sir.

Q. And for the month of March $1809.56? A. Yes, sir.

Q. For the month of April $2311.58? A. Yes, sir.

Q. For the month of May $1362.79? A. Yes, sir.

Q. Now turn to page 28. For the month of June $1699.60? A. Yes, sir.

Q. July $844.50? A. Yes, sir. **4634**

Q. And subject to correct the total for those seven months of 1901 is $18312.68. Now turn to the corresponding purchasing period in 1902. Let us see what Mr. Keen's purchases were in 1902 before the strike; January, 1902, $1910.18? A. Yes, sir.

Q. February 1902, $2408.85? A. Yes, sir.

Q. March 1902 $1579.60? A. Yes, sir.

Q. April 1902, $1358.70; is that right? A. Yes, sir.

Q. May, 1902, $826.03? A. Yes, sir.

Q. Then turn to page 51, June, $383.38? A. Yes, sir. **4635**

Q. July $1407.90? A. Yes, sir.

Q. Total subject to correction $9874.54, 1902, as compared with $18212 for the same period in 1901? A. Yes, sir.

Q. About cuts in half, Mr. Loewe? A. About.

Q. And before the strike? A. Yes, sir.

Q. Now there is another Philadelphia customer, Seeds; there is a deposition from Mr. somebody connected with Mr. Seeds? A. Yes, just a moment, I have it.

Q. Have you got Mr. Seeds? A. I have.

Q. January 1901, is $2106.00; is that right? A. Yes, sir. **4636**

Q. February $1159.50? A. Yes, sir.

Q. March $258.00? A. Yes, sir.

Q. May $1023? A. You skipped April did you?

Q. No, I didn't mean to, it is April that is $1023, isn't it? A. Yes. And March—

Q. March $258 and April $1023, May $620? A. Yes, sir.

Q. Now page 34, June $989.13? A. Yes, sir.

Q. And July $165.50? A. Yes, sir.

4637 Q. Making a total for Mr. Seeds for the first seven months of 1901, subject to correction, $5,730.13.

Q. Now turn to 1902, January, Mr. Seeds bought in that month $252? A. Yes, sir.

Q. February $436.50? A. Yes, sir.

Q. March $864.25? A. Yes, sir.

Q. April $784.50? A. Yes, sir.

Q. May $119? A. Yes, sir.

Q. And on page 51? A. Yes, sir.

Q. June $72? A. Yes, sir.

Q. July $363.57? A. Yes, sir.

4638 Q. Making a total, subject to correction of $2891 in 1902, as compared with $5730 in 1901? A. Yes, sir.

Q. In their business; cuts practically in half before the strike? A. Yes, sir.

Q. Well, Longley, Low & Alexander; there has been some testimony about his concern and the reason why he stopped doing business. Won't you turn to his account for January 1901. Page 13 is the first one? A. I have it.

Q. January, 1901, $810? A. Yes, sir.

Q. February $879.10? A. Yes, sir.

Q. March $1080? A. Yes, sir.

4639 Q. April $2914.13? A. Yes, sir.

Q. May $433.13? A. Yes, sir.

Q. June $31.41? A. What page, Mr. Beach?

Q. Page 37? A. $3141.

Q. How much is it? A. $3141.

Q. July, $2850.67? A. Yes, sir.

Q. Making a total, subject to correction of $12108 and some cents. Now take the corresponding period, Longley, Low & Alexander, in 1902, January, $930.75? A. Yes, sir.

Q. February $1074.97? A. Yes, sir.

Q. March $928? A. Yes, sir.

4640 Q. April $431? A. Yes, sir.

Q. May $172.50? A. Yes, sir.

Q. June on page 54, $81? A. Yes, sir.

Q. July $276? A. Yes, sir.

Q. Making a total, subject to correction, $3894 in 1902, before the strike as compared with $12000 for the same period in 1901? A. Yes, sir.

Q. About one third of the business for that customer.

Q. Do you recollect whether anything was said about Sol Ducker at this trial? A. No, I don't think so.

Q. Now, Mr. Loewe, have you got somewhere the total sales that you made in the year 1902 before the strike and the total sales that you made in the year 1901 for a corresponding period so that we can compare them? 4641
Witness:
I don't seem to have that.
Q. You understand what it is I am asking for? A. You want the—
Q. The total sales? A. For seven months of 1901?
Q. The first seven months of 1901, as compared with the total sales of the seven months of 1902 before the strike?
A. I haven't it in dollars and cents here, Mr. Beach. 4642
Q. Well, will you get it for me? A. I will.
Q. There is another customer I want to call your attention to. I can't do it with all of them. I took some of the larger ones that you testified about. I guess, Mr. Loewe, you can get the figures and have them this afternoon, can't you?
A. I will try and get them for you.
Mr. Mulholland:
Mr. Merritt, you didn't put in any tabulated list of cancellations, did you?
Mr. Merritt:
No, I didn't.
Mr. Mulholland: 4643
Something was said yesterday about getting it.
Mr. Merritt:
Well, I think he could give it approximately.
Mr. Beach:
I would rather wait 'till he gets his tabulated statement.
Mr. Merritt:
I have been trying to get it.
The Witness:
I haven't anything here to do with it.
Q. Look at the account of Moore, Smith & Co. They were Boston? A. Yes, sir. 4644
Q. And I think there have been some depositions concerning them and the reasons why their business fell off. Now compare their business in the same way: turn to January, 1901? A. Yes, sir.
Q. $2288.48? A. I think that's right.
Q. February $3610.34? A. Yes, sir.
Q. March $3140.75? A. Just a moment. We don't seem to agree. I have here $1149.75.

4645 Q. That is for what month? A. Month of March.
Q. Did I get those figures on the wrong side of the account; is there $2870 there? A. No, I don't see it there.
Q. I made some mistake there? A. I don't see it.
Q. I made some mistake there; what was that figure for March instead of $2870? A. $1149.75.
Q. And for April? A. $870.01.
Q. And for May? A. $802.58.
Q. May $802.58? And June what? A. Just a moment.

4646 Q. Page 29? A. June $1444.52.
Q. And for July? A. $1221.75.
Q. I wish you would get me those figures right now because I have made some mistake and I would like to straighten it out. Go back to January 1901? A. $213.59—Oh, beg pardon, that isn't it.
Q. January 1901, Moore, Smith & Co.? A. $2788.48.
Q. February, please? A. $3610.34.
Q. Yes; March? A. $1149.75.
Q. That straightens it out I guess. April $870.01? A. Yes, sir.
Q. May $852.58? A. Yes, sir.

4647 Q. So that the total of that is somewhere in the neighborhood of $14500.00 in 1901; you can add it up again later. Now turn to 1902 for the same period? A. Yes, sir.
Q. January $2061.82? A. Yes, sir.
Q. February $1422.98? A. Yes, sir.
Q. March, $155.25? A. Well, that is April.
Q. What is March? A. $342.00.
Q. Correct; April $155.25; May $335.88? A. Yes, sir.
Q. And then June, I haven't got that page? A. Page 53 here.

4648 Q. $883.26? A. Yes, sir.
Q. July $1362.00? A. Yes, sir.
Q. And for 1902 I figure the total $6583.00 as against something in the neighborhood of $14500.00 for the corresponding period of 1901. And that also more than cut in half —No beg pardon is wasn't cut in—I am right; and the fact is isn't it Mr. Loewe that your sales for the first seven months of 1902 before the strike were very largely smaller than the sales for the corresponding months during 1901? A. Yes, sir; I can remember in the neighborhood of $50,000.

Q. I wish you would get that figure right? A. Yes, sir. 4649

Q. Subject to correction you now say that your business for the first 7 months of 1902 was $50,000 less than it was for the corresponding period of 1901? A. Yes, sir.

Q. Subject to correction. Now we have got here another schedule that you put in showing the number of dozens of hats that were manufactured from month to month in different years; and I have, subject to correction, added up the hats manufactured in 1901 down to the first of August, which as I figure them amount to 22,336 dozen, and the hats manufactured in 1902 for the same period as I figure them 4650 amount to 18,240 dozen; so that the fact is, is it not, that you manufactured considerable fewer hats in the first half of 1902, before the strike than you manufactured in 1901? A. Yes, sir.

Q. And as I add these figures up you manufactured less in the first seven months of 1902 than you did in 1900? A. Yes, that is right.

Q. And less by a small margin than you did in 1899 for the same period? A. That I don't remember.

Q. Now, the total percentage of cost: have you got a copy of that before you? A. Yes, percentage.

Q. I wish you would tell me what items of cost are in- 4651 cluded under the head of expense in that total; is it the same item Mr. Loewe that is included under the head of expenses in your profit and loss account? A. Yes, it is fuel, selling expenses and general expenses, trade discount on—no I thought I had it here.

Q. Well, you have got it. To refresh your recollection I show you a copy of one? A. Yes, transportation, fuel, insurance, interest, taxes, salaries, expenses, and so on.

Q. What is included in the "etc. and so on"? A. Why, a few other items which are enumerated in the book there. I can't recall just now. 4652

Q. What items are included under the head of labor? A. The amount of money that we pay for labor and superintendent, help and the drawing salary of the firm.

Q. That includes wages of employees, wages of superintendents and the regular salary of the members of the firm? A. Yes, sir.

Q. Is there anything included under the head of "materials" except the physical materials that go into the hats? A. No,—yes, there are some supplies that are included which

4653 really comes under the heading of supplies in our books; like cases and boxes and packing paper.

Q. You use a great deal of sandpaper, don't you? A. Some.

Q. That don't amount to much, of course, but all this stiffening and dyeing material, and everything else? A. Yes, shellac and all that.

Q. The principal item in the case of these materials is fur, is it not? A. Yes.

Q. Now during these years 1900 and during the years 1901, 2 and 3, did you make any change in the character of
4654 the fur that went into the respective grades of hats? A. Why, not that I remember. Of course the style and shape of a hat may change.

Q. It is particularly true, Mr. Loewe, isn't it, with soft hats that there a great many different styles of them, and a great many changes in fashions? A. Yes, sir.

Q. And what I want to get at is whether there was any change in your mixture of fur which you put into the different grades of hats during those years? A. Well, I couldn't tell you, because I figure each hat as I make it, and I may have changed if it cost more for fur; may have cost
4655 less for trimmings, or something in that way.

Q. Then I will ask you whether there was any change in the market price of fur that you bought during those three years? A. I usually figure my hats according to the price of the fur and material I wanted to put in. I allowed so much for material and so much for labor.

Q. Yes, but I am talking now about these figures here in this schedule, what the actual percentage of material cost was? A. Yes.

Q. I want to know whether the price of the material remained the same; the price of the principal ingredient re-
4656 mained the same? A. The price of material is apt to change; when it does change I change the quality of material or the material in such a way; some times the body is lighter; sometimes it costs about the same, but I figure each to allow so much for material and so much for labor.

Q. I guess that answers my question; you change the mixtures as the price changes? A. Yes, sir; yes, sir.

Q. So that for all those three years then the material cost, as represented in these totals was not affected by any change of price that might have taken place? A. Not materially; no.

Q. Then this increase in the percentage of the cost of material from 47.2% in 1901 to 55.2% in 1902, how was that accounted for? A. Principally accounted for so many hats being spoiled, so much more material used. **4657**

Q. Your factory was running without interruption in 1902 down to the first of August? A. Yes, sir.

Q. 25th of July. During August it wasn't running much of any? A. No.

Q. So that this spoiling of materials that you speak of as far as it was excessive took place in September and October, November, December, did it? A. Yes, sir.

The Court: **4658**

Recess until two o'clock.

Recess.

Afternoon session, Thursday, September 19, 1912.

DIETRICH E. LOEWE

on the stand.

CROSS EXAMINATION

Resumed by Mr. Beach:

Q. Mr. Loewe, you were talking about the percentages, cost percentages? A. Yes, sir.

Q. And you said the percentage of cost of material would not vary the price of the material substantially because you compensated for that in the making up of the mixture? A. That is as to the cost of the hat? **4659**

Q. Yes? A. Yes.

Q. And that the increased percentage cost of material from 47.2% in 1901 to 55.2% in 1902 was due to the hats spoiled in the latter part of the year? A. That is it, yes.

Q. And in 1903 I notice that the percentage was 50.8 as against 47.2 in 1901, being a considerable increase; whether or not that increase was due to the spoiling of the hats by your employes as compared with 1901? A. As I recollect those were very large shapes at that time, 1899? No. **4660**

Q. 1903 I am talking about; don't let us misunderstand each other unnecessarily. In 1903 your percentage cost of materials was 50.8 per cent whereas in 1901 it was only 47.2% Now was, or was not that difference due to the spoiling of the hats by your employes in 1903? A. To a certain extent, yes.

Q. And what other cause operated to make that increase, if any? A. I don't know of any other.

4661 Q. And that percentage of spoiled hats, would it make any difference how many hats they made, or how few; the more they made the more they would spoil, and the less they made the less they would spoil, but the percentage would be the same? A. Why, Mr. Beach, we took this from the number of hats for the year. I can't explain it any differently. Those are all figures taken from our books.

Q. I understand it, what I want to get at is whether or not it will make any difference if you had made twice as many hats if the same workmen had made twice as many hats it would be the same percentage? A. That I can't tell about.

4662 Q. You don't know? A. No, because we didn't have it.

Q. Now in 1901 your labor cost was 36%, and in 1902 it was 40.8; what was the reason of that difference? A. We had to expend so much more labor. Our price that we paid for the labor was the same as before.

Q. Paid the same price for labor, but the labor was not as efficient, is that it? A. That was it.

Q. But in 1903 there was still a further rise in the labor cost as against 36% in 1901, it was 42.6% in 1903; was that due to the same cause? A. Yes, sir.

4663 Q. The inefficiency of labor? A. Yes, sir.

Q. Your expense also increased? A. Yes, sir.

Q. What was that due to? A. Why if we were running the factory and turned out a less number of hats it would increase the cost of fuel, and also the overhead charges.

Mr. Merritt:

Q. That is increase the cost per hat? A. Yes, sir, it is the percentage we figure on.

Q. Yes, the fewer the hats, the larger your expense account would be? A. Yes, sir.

4664 Q. And the larger or the more hats, I don't mean to say the less it would be, but it would decrease; so you attribute the increase of the expense account to the fact that you manufactured fewer hats in that year? A. Yes, sir. The principal thing in that year was that it cost us a great deal to teach these people, and a lot of other expenses that was incurred.

Q. The cost of teaching, didn't that come into the labor rather than into the expense? A. Yes, that came into the labor, that's right.

Q. So this item of expense here is the one that was directly affected by the volume of business, isn't it? A. Just a moment. 4665

Q. That is a stationary item and the percentage value of it depends upon the amount of business done? A. One item was interest which was considerable, considerably larger, our selling was conisderably larger, and the general expense, transportation and fuel was about the same. Transportation was less in 1901 and fuel shows a little bit more.

Q. Practically you would expect that to vary with the volume of business, that item? A. Yes.

Q. Now let me call your attention to the fact, Mr. Loewe, that on these percentage figures in 1902, it is true, isn't it, that even if the expense had remained the same, the percentage of expense would have remained the same, you would have still lost money on your hats? A. On account of less business. 4666

Q. On account of the cost of materials which you say increased because the workmen spoiled the hats? A. Yes.

Q. And on account of the increased cost of labor percentage which you say was due to the inefficiency of the labor? A. Yes.

Q. And if your expense account remained the same proportionately, you would still have done business at a loss wouldn't you? A. I don't know whether I get that right or not. 4667

Q. Look at your table of percentages, it is a very simple matter of mathematics, but I want to get it on the record if I can. A. These are all prepared from the volume of business, all based on the volume of business. I don't know how I can answer any better than I have.

Mr. Merritt:

As I understand it, you say that with this volume of business, could not do business at a profit under the charge he has there? 4668

Mr. Beach:

That is not my point at all. I think I have made it clear enough perhaps, but I wanted to get it if I can on the records.

Q. Well, am I right in this, Mr. Loewe, that you attribute the increased percentage cost of material to the destruction or loss of materials due to the inefficiency of the work men? A. Yes, sir.

4669 Q. And that you attribute the increase labor cost percentage also to the inefficiency of the workmen during those years? A. Yes, sir.

Q. I think I can figure it from that without any further examination on that point.

Q. You found, you told me, some difficulty in figuring the detail amount of materials for the first seven months of 1901 and 1902? A. Yes, I will get them for you as soon as I can.

Q. And these books of yours here, if we should want to employ an expert to look them over— A. Yes, sir, you
4670 can have them.

Q. We can have them? A. Yes, sir.

Q. Do I understand you, Mr. Loewe, to say that the larger part of your business was your shipments—you said a larger part of your shipments are ordinarily done in the last half of the year? A. As a rule, yes, yes indeed.

Q. What would you say to this, is it or not true, that your shipments for the first seven months of the year of 1901, for example, were greater than the shipments for the balance of the year? A. It might possibly be that some of the customers placing their orders and having shipments
4671 made easily during the months of November and December, or placing their orders and having the shipments made January, February and March.

Q. Now take Wecksler, Lauffler & Co., their total business for 1900 was $46,000 in round figures? A. Yes, sir.

Q. Out of that it seems by the figures we have already made $26,000 in round figures was prior to August 1901, so that you did a larger part of their business in 1901 in the first seven months of the year? A. Well, you take seven months, you know it is over half of the year.

4672 Q. Well, I am putting it to you at seven months, and you say now that the first seven months of the year covers the larger or the smaller part of your business under normal conditions? A. Well, I couldn't say as to seven, but the six I should say that the first six months of the year should be the smallest part of the business.

Q. The month of July does not cut very much figure does it? A. Why, we usually start up in the month of July, and we did in those days.

Q. Why, here is Montague in 1901 he did in round figures $44,000 worth of business, and in the first seven months

of it, there was $29,000 of that, a great deal more than half of it. A. Well, we must have made him shipments in July, because we could not make him any shipments until July and August. 4673

Q. By the way, I see Mr. Montague's business in 1900 was about $29,000 and in 1901 it jumped to $44,000. Can you explain what was the reason for that sudden and large increase? A. He put on an additional force of salesmen and increased his business considerably.

Q. Your books will show, Mr. Loewe, what the fact was as to the volume of your business with these different customers, whether most of the business was done in the first part of the year or the last part, would they? A. I didn't catch the first part of your question. 4674

Q. I say your books will show? A. Yes, indeed, the books will show.

Q. Whether the larger part of your business was done in the first part of the year or the last part? A. Yes, sir.

The Court:

Has that list of cancelled orders been read into the records?

Mr. Merritt:

It has not your Honor. 4675

Mr. Beach:

It is going to be.

Mr. Merritt:

Why, it is not absolutely as complete, as I understand yet, but we will give you what we have got. Have you got it there with you, Mr. Loewe? A. I will see.

Mr. Merritt:

Suppose you give it now, and then if Mr. Beach wants to ask you any questions in regard to it, he can. (The witness leaves the stand and gets some papers.)

Mr. Merritt: 4676

Just read to the stenographer what you have. A. William P. Montague & Co., 600 dozen.

Q. Those are cancellations? A. Yes, sir.

Q. Can you give the dates of the cancellation? A. Why August and September, I haven't got the exact date.

Mr. Merritt:

1902? A. Yes, sir, all of these are during those two months.

E. B. Robbins & Co., Columbus, Ohio, 12 dozen;

4677 C. H. Meyers Bros., San Francisco, 18 dozen;
Mabley, Carew & Co., Cincinnati, 9 dozen;
Jacob Seeds & Co., Philadelphia, 18 dozen;
Brown & Co., Cincinnati, 9 dozen;
Geo. W. Leach, New York, 27 dozen;
Ichold & Miller, New York, 3 dozen;;
E. R. Wessels, Newark, N. J. 6 dozen;
Denzer, Goodhart & Schaurer 4½ dozen;
Boise & Milwain, Albany, 3 dozen;
Freeman Bros., New York, 25 dozen;
Eli Keen, Philadelphia, 52 dozen;
4678 Delano & Wheeler, Boston, 43 dozen.

Mr. Merritt:

You had better state if you know what the reason for cancellation was; you received letters in a good many instances, did you? A. Yes, sir, I have the letters here.

Mr. Merritt:

I don't want to offer the letters now.

A. Inability to fill them on time, but there must be a number more than I haven't on record here. I have got the names, but not the number of dozen.

4679 EXAMINATION

Resumed by Mr. Beach:

Q. You said, Mr. Loewe, that you did not cater to the floating trade, I believe; I wish you would tell me what you mean by "floating trade"? A. There is a certain trade, that is, a certain jobbing trade, who will buy wherever they can strike the best bargain. They go around, and then they don't buy at the same place every season.

Q. Well, I suppose that all jobbers who buy intelligently try to buy to the best value, don't they? A. Yes,
4680 Mr. Beach, we have a number of customers and they would not say what kind of a hat are you going to give me, but what kind of style are you going to give me in this grade, that is the way they used to buy from me.

Q. Never lost from time to time, customer of course before this strike? A. Oh, yes, change of buyers, etc., would make a difference.

Q. And competition among the manufacturers? A. Perhaps so.

Q. Take Salmon & Cooke? A. Yes, but I never did much business with them.

Q. Let us see, in the year 1900 they are on this list as having done 7,535 dollars; you call that considerable business? A. Yes, but I couldn't tell now, but I believe they went out of business. 4681

Q. The next year 1901, they dropped $1,939? A. Yes.

Q. They didn't do anything in 1902 and 1903? A. It is my impression they went out of business.

Q. Now take Maynard & Co., did they go out of business? A. I think so.

Q. Were they before that time one of your regular customers? A. Maynard & Co.?

Q. Yes. A. Not particularly, no. 4682

Q. They were not? A. We never did very much business with them.

Q. In 1900 you did $2422 worth with them? A. Yes.

Q. That is a fair amount of business for one customer, isn't it? A. Not for that sized house at that time.

Q. In 1901 only $215? A. And no more after that.

Q. Then Slater, Sielten & White, do you remember them? A. Yes, sir.

Q. Did they continue in business, or did they go out of business? A. No, they stayed in business.

Q. They did $3400 worth of business in 1900? A. Yes, sir. 4683

Q. And only $1900 in 1901. And none at all in 1902 and 1903? A. A salesman from Wechsler Lauffer & Co. went there and he wanted our line of goods and that is the reason they bought, but he remained there only a few years.

Q. When that salesman left you lost that business? A. I lost that business, yes.

Q. Well, take Freeman Bros. They did a business of $18,000 with you in 1900? A. Yes, sir.

Q. In the year 1901 only $520? A. Only $500?

Q. Only $520 according to this list. Then they came back again in the year 1902 to $5800 and in 1903 to $8000? A. Yes, there was something about that, I don't remember exactly what it was. 4684

Q. Well, Hill & Caldwell, do you remember them? A. Yes.

Q. They did $4100 worth of business in 1900, and in 1901, only $553, and in 1902, $350? A. Hill and Caldwell did not buy many domestic goods, but they devoted their whole attention to imported goods. I don't know that they buy any domestic goods at the present time.

4685 Q. Well, these figures that I have given of their business is correct? A. Oh, I think so, if they appear there, sure.

Q. Mr. Loewe, you remember bringing an action in 1905 in the United States Court of California for an injunction? A. Yes, sir.

Mr. Merritt:

Do you want the complaint?

Mr. Beach:

I simply want to call his attention to it, but I might as well have the complaint.

4686 Q. Simply upon the question, Mr. Loewe, as to whether or not the pressure on your business on the Pacific coast was continued after the commencement of this suit? A. It was, in fact, we didn't feel it until—

Q. What? A. In fact we didn't feel the loss of business until 1903 on the Pacific Coast.

Q. You didn't feel the loss of business until when? A. On the Coast as we call it.

Q. On the Pacific Coast when? A. 1903.

Q. What part of 1903? A. Why the Trieste & Co. business, we didn't feel it until fall. With some of the other
4687 customers we felt it immediately after the start to boycott Trieste & Co.

Q. Now let us see, Mr. Trieste's deposition has been read here, and as I recall it, he testified that he came down but could not make his fall purchases until October, is that it, in 1903, is that the time? A. September.

Q. As I recall his testimony, it was to the effect that at that time he did not change either the volume of the character of his purchases on account of that trouble out there? A. In 1903?

Q. Yes; if that is true, you didn't feel the pressure of
4688 this affair on your Pacific Coast business with him until 1904? A. He first purchased for the spring.

Q. Not until 1904; then if that is so, if that is his testimony? A. Well, to the best of my knowledge I think it is so, but we didn't do quite as much business with him.

Q. Of course I am not saying that you did as much business, but— A. I don't want to contradict Mr. Trieste, but at the same time I have to go according to the volume of business we did with him.

Q. Whether the volume of business increased or decreased or not, you would not dispute Mr. Trieste's statement

that he did not change the volume or amount of his purchases on account of this boycott, would you? A. I don't know exactly what his statement was, but I think he tried to get as many dozen but they didn't amount to as much. 4689

Q. His testimony will stand so far as you are concerned as a correct statement of that?

Mr. Merritt:

I object to that. The witness has already testified what he thinks the facts are.

The Witness:

I believe he gave you a statement of the number of dozen that we did with him. 4690

Q. Then coming back to the question of the continuing pressure on your business out on the Pacific coast after the commencement of this action which was in 1905, when you brought the suit for the injunction? A. Yes, sir.

Q. Against the California State Federation of Labor and what was the purpose of that action? A. The purpose was to stop the Labor Union from boycotting Trieste & Co. which prevented him from buying our line of goods.

Q. It was to put a stop to the existing boycott which was still being carried on out there? A. Yes, sir.

Q. And as a matter of fact after that injunction was granted, your business improved out there, didn't it? A. Yes, sir. 4691

Q. Now you said something that I didn't quite catch Mr. Loewe, in regard to some of your other customers on the Pacific coast. I remember what you said about Mr. Trieste, but you started to say something about some of your other customers. A. There was C. H. Meyers & Bros. and Louis Klein & Co.

Q. There was no boycott started on the Pacific coast until July 1903, was there? A. Practically none.

Q. Now Mr. Meyers business appears to have been substantially $9000 in 1900, then it went to substantially $6000 in 1901 and then dropped off to $1500 in 1902; that you say was before there was any substantial boycott out there? A. 1902? 4692

Q. Yes, you just said it did not begin until July 1903? A. Mr. C. H. Meyers & Bros. was rather differently situated from the rest. One of the brothers did nothing but buy goods in New York, and I don't remember whether he was visited by anybody or not, I couldn't tell you but he had an office in New York and lived there.

4693 Q. C. H. Meyer & Bro. was in California and Mr. Meyers has deposed, we have a deposition from him in this case. A. I don't think so Mr. Beach.

Mr. Merritt:

There is a deposition from him in this case. A. Allenberg Leopold was their salesman or was their buyer.

Q. Their buyer was Leopold Allenberg, or Allenberg Leopold? A. Yes.

Mr. Merritt:

I think Mr. Loewe said it was one of the brothers.

4694 A. Mr. C. H. Meyer lived in New York had an office in New York and he would buy all the goods for the house. It is rather peculiar. We have to make samples, and the samples had to go on the coast and the orders would come from the coast to Mr. C. H. Meyers and then he would place the order.

Q. That is what I am getting at, the fact is that Mr. Leopold did the buying out in California? A. That is what the deposition told me, I didn't know that before.

Mr. Merritt:

He testified in the latter part of 1902.

The Witness:

4695 I didn't know how it was done, I never knew Mr. Leopold before.

Q. And your books will show what he is on your books here for? A. Yes.

Mr. Beach:

I guess that is all, Mr. Loewe, unless we should want these books.

RE-DIRECT EXAMINATION

By Mr. Merritt:

4696 Q. As I understand your testimony Mr. Loewe, on cross examination, the shipments in 1901 from January to July inclusive, were 4,000 dozen more than during the same months in 1902 or approximately 4,000 dozen? A. Approximately, yes.

Q. Now you testified did you not that you had on hand more orders than you had before at any later period, on July 25, 1902? A. Yes, sir.

Q. And what was the amount of those extra orders, how much did that number of orders exceed what you had

had in the year 1901, on the same date? A. As I remember about 1500 dozen. **4697**

The Court:

What date do you refer to now?

Mr. Merritt:

July 25, 1902.

Q. Well, had you counted in that 1500 dozen excess orders when you stated that the amount of business during the first seven months of 1901 was 4,000 more than 1902? A. Why, you have the shipments, but we would not count until the goods would leave the factory. At that time there were 4100 and some odd dozens of orders on hand at the time that had not been shipped, and some of which were in the process of manufacture. **4698**

Q. Well, is it fair to state there that the amount of orders that you received during the first seven months of 1902 were not over 2500 less than those you had received during the first 7 months of 1901, generally speaking? A. It is reasonable to assume that.

Mr. Beach:

That is 2500 dozen.

Mr. Merritt:

2500 dozen, yes.

Q. About how many dozen would you turn out in a month during your busy month? A. Why, we expect to turn out about 1000 dozen a week. **4699**

Q. About 4000 dozen a month? A. Yes, sir.

Q. Had you made any preparations of any kind looking toward that capacity or output? A. Yes, sir.

Q. Well what preparation? A. Why, the number of bodies that he had on hand and kept on hand in the stock room and the preparation that we made to put through so many dozen hats a day or so many dozen hats a week, and had a sufficient number of men employed and cases ordered and everything pertaining to the making and manufacturing of the hats and have them ready for shipment. **4700**

Q. Can you tell me if you had manufactured 4,000 dozen a month during the coming three months, and your business in November and December had been the same as they had been in 1901, whether you would have made up any deficiency there was at the time of the strike? A. Yes, sir.

Q. In round numbers, what was the actual falling off of your business in the year 1902 as compared with the year 1901? A. Somewhere in the neighborhood of $156,000.

4701 Q. Can you tell me to the best of your recollection in the year 1902 whether any of your customers complained to you that the goods which you had shipped them were inferior? A. I can't remember, I can't recollect that anybody complained to me about goods being poor.

Q. Can you give me the amount of your returned goods during the years 1901, '02 and '03, or any such years there as you have prepared? A. Yes, sir.

Q. Have you it? A. For which years?

Q. What year have you got? A. I have 1900, 1901, 1902 and 1903. 1900, amount $12058.77 for 983 dozen; 1901,
4702 927 dozen, amount $11036.58; 1902, 903 dozen amounting to $10641.34; 1903, 798 dozen amounting to $9152.49.

Q. If I understand the figures in the years 1902 and 1903, actual number of returns was less than in the years 1900 and 1901? A. Yes, sir.

Q. But the percentage of the records would be larger on account of the reduced business? A. Yes, sir.

Q. Now I will ask you in regard to these customers that Mr. Beach asked you about; how long have you done business prior to 1902 with J. R. Worthley? A. Oh about 5 or 6 years.

4703 Mr. Merritt:

If I am permitted I would like to read some figures in regard to these customers which are already in the record. I won't ask him to read these figures. I am going to take up simply the customers you ask about.

Mr. Beach:

Any figures subsequent to the bringing of the suit our objection already made applies to.

Mr. Merritt:

I have not in mind now that at all.

The business done with J. R. Worthley in the year 1903
4704 was $3,180.11. In the year 1901 it was $6,359.98. Then in the year 1902 $2,935.63.

Q. How long have you done business with the concern of J. J. Seeds & Co.? A. Oh I think in 1897 or '98.

Mr. Merritt:

I will also show that this concerns business was increasing. 1900 $5,917.22; and $12910.72 in 1901.

Q. Now Mr. Beach has given the figures of the business done with J. J. Seeds & Co. during the first 7 months of 1901 and the first 7 months of 1902. I am going to give it during the last 5 months of 1901 and the last 5 months of

1902. The business done by the concern during the last 5 months of 1901 was $7180. The last five months of 1902 was $695. 4705

Q. How long have you done business with Longley, Lowe & Alexander? A. Since 1897 or '98 I think.

Q. The business done with your concern in 1900 was $8448.15. In 1901 it was $18748.24.

Now I will read the business done with this customer during the last 5 months of 1901 and the last 5 months of 1902 immediately following the strike.

In the last five months of 1901 they did $6640 of business, and the last 5 months of 1902 they did nothing. 4706

Q. You did not do business with them after that down to the end of 1904? A. Yes, I think there was a small order placed in 1903. You remember they testified that the order was given by mistake.

Q. Oh, yes, I remember $112.50. Now taking the concern of Moore, Smith & Co. in Massachusetts; how long had you done business with them? A. Oh a year or two before 1900.

Q. Now the business with this concern in 1900 was $14215; in 1901 it was $16,074 and the business for the last 5 months of 1901 and 1902 was as follows: the last 5 months of 1901 it was $1,574; the last 5 months of 1902 it was $1,722. 4707

Q. How long had you done business with the concern of Eli Keen & Son? A. Since 1896 or 1897.

Q. The business of this concern in 1900 was $30,370.34. In 1901 it was $31170.74. The business of the last 5 months of 1901 with this concern was $12,858 and the last 5 months or the 5 months following the strike, it was $8979.

Q. How long had you done business with J. T. Asch? The Witness:

1897. Their business did not increase.

Q. In the last 5 months of 1901 the business of J. T. Asch was $2597. In the last months of 1902 immediately following the strike it was $112.63. 4708

How long had you done business with J. R. Gilledeau. A. About 1899 I think somewhere around there.

Q. And the business of J. R. Gilledeau in 1900 was $1831.88; in 1901 it was $2164.18. The business of Gilledeau for the last 5 months of 1901 was $1158.18. During the 5 months following the strike it was $295.

4709 Mr. Loewe, about how many customers have you on your books, or did you have in those years? A. Why about—

Mr. Merritt:

Well, I have counted these other customers that you have been putting upon the record here, and I would like to state that there are about 225. That is subject to correction of course.

Mr. Mulholland:

That is in the year 1902?

Mr. Beach:

4710 We will put that figure in the records by agreement.

Mr. Merritt:

All right, and in stating that 225, I guess I have given all the customers that appear during the 4 years, and some dropped out one year and new ones came in another year.

Q. Mr. Loewe, will you state whether or not any one beside D. E. Loewe & Co. would have any interest in or claim to any judgment which you might obtain in this case? A. No, sir.

Q. Did you make any effort to reduce the fixed charges after the strike, or shortly after it? A. Yes.

4711 Q. What effort did you make?

The Court:

Make any effort to what?

Q. To reduce your fixed charges or expenses? A. I had all the office help in the first place, help me as much as they possibly could to get out goods, worked in different departments and tried to economize in every way I possibly could in reducing the running expenses of the factory. In certain places, salaried foremen and the superintendents we did not fill until later.

Q. Have you made any statement showing on what you
4712 base your claim for damages, summarizing it?

Mr. Mulholland:

Is this direct examination?

The Court:

Do you object to it?

Mr. Mulholland:

Oh no if he wants to put it in, but I don't think it is re-direct examination.

Mr. Merritt:

I don't think it is either, I am free to say I don't think it is.

Mr. Beach: 4713

Go on.

Mr. Merritt:

I don't know as I care about it.

The Court:

Is that all from this witness?

Mr. Merritt:

That is all your Honor.

Mr. Beach:

I guess that is all.

Mr. Davenport:

Bro. Beach, I want to read from Mr. Morrison's deposi- 4714
tion from the April 1897 deposition. This is a report, or one report made to the American Federation of Labor by Henry White, in April 1897, similar to the reports that have gone in before. I have not the original book here because they had but one copy in the headquarters at Washington, and it was stipulated between Mr. Beach and myself that this copy might go in its place.

Mr. Mulholland:

As a part of Mr. Morrison's deposition, I understand?

Mr. Davenport:

Why yes he was examined in regard to thing right from 4715
the book.

This is a part of the report of 1897 at page 39.

"Mr. Henry White of the Garment Workers report that the central labor union at Danbury has resolved not to allow any goods that are non union within the precincts of the town. A careful canvass has been made and all non union goods in stores will be tagged so that after May 1st, goods not bearing the label or the tag will be boycotted. Exception is made of course to articles made by working people in trades where no organization exists. The dealers have all agreed to this proposition, as all working people of the town are organized." 4716

Mr. Davenport:

Now I read from the American Federationist for the month of March 1901, page 83, under the heading, "What Our Organizers are Doing from the Atlantic to the Pacific."

General Unions, Monthly Reports. Under the subject of Hatters.

General President John A. Moffitt reports we were enabled within the past six months to unionize more than 20 non union factories amongst which are some of the largest

4717 hat factories in the country, towit: Berg & Co., of Orange who employe between 700 and 800 hands, makers and finishers; E. V. Connett & Co. who employ a like number; C. R. Rutan & Co. who employ about 200 makers and finishers;; Meyer, Mercy & Co. of Newark, 2 factories employing 500 hands makers and finishers; I. M. Hedden of Newark, 2 factories, the Federal Hat Co., Goodman & Co., Kridel, and a number of smaller shops, all in the Newark district. Meyer & Co., the Empire Hat Works of Wabash Indiana and E. A. Mallory & Sons of Danbury.

4718 We are also negotiating at the writing of this report for the unionizing of two other large non union factories.

The success of our label is simply phenomenal and this is solely owing to the agitation being carried on by our agents on the road, and the support given us by the organized labor of the land."

(Fifteen Minute Recess.)

Mr. Davenport:

Your Honor, when Mr. Morrison was on the stand, your Honor will remember that on cross examination I asked him in regard to the assessment that was made in pursuance of the resolution that was introduced at the 1898 convention

4719 as to the receipts and as to the disbursements in the defense of this suit, and he stated that they would be accurately found in his reports; and I merely want to read now from page 63 of the report of the proceedings of the convention of 1910 being a portion of the report of Mr. Morrison.

"A two cent assessment. This assessment was levied on the membership of all affiliated organizations on April 22nd, 1910, upon the application of the officers of the United Hatters based upon the instruction of the Denver Convention of the American Federation of Labor to the executive council to take whatever action was necessary to carry into effect the

4720 resolution adopted pledging the moral and financial assistance of the American Federation of Labor in their struggle.

The proceeds of this assessment are being used to defray the expenses in taking an appeal from the decision of the Federal Circuit Court of Connecticut, under which the Loewe Co. was awarded damages, etc.

Receipts from April 27 to September 30, 1910, $27,782.63. Disbursements $6,515, leaving a balance of over $21,200.

The Court:

How is the amount material?

Mr. Davenport: 4721

Simply because the witness said it was accurate instead of taking the book and handing it to him and asking him at that time. All I want is the amount of receipts and the amount of disbursements, not the items at all.

The Court:

What do you claim from this, Mr. Davenport?

Mr. Davenport:

Your Honor will remember that Mr. Morrison said that the American Federation of Labor never had had anything to do with a boycott and I cross examined him. He was introduced and put upon the stand by Mr. Beach for that pur- 4722
pose, and at the end I cross examined him and in cross examination of him I inquired what different acts and steps were taken.

The Court:

Do you want to read that as a part of his cross examination?

Mr. Davenport:

That is all, just get the total. I don't care anything about the items.

In the report for 1911 he said, there were further receipts of $2,280 making an aggregate of about $30,000 on 4723
a two cent assessment on one million five hundred and four thousand members, and the total disbursements were about $20,000 altogether.

Mr. Merritt:

Now I want to read from the Journal of the United Hatters of North America for October 1903.

"Everyone in this city is more or less familiar with the efforts to bring about the unionizing of the factory of D. E. Loewe & Co. of which the suits brought to day are the outcome. The papers filed in connection with the suit go into the matter in great detail, filling pages of printed mat- 4724
ter."

Mr. Beach:

What is that?

Mr. Merritt:

That is a statement beginning on page 1 of the Journal of the United Hatters for October 1903, and dated Danbury Sept. 12, 1903.

Mr. Beach:

We object to it as subsequent to the commencement of the action, and also for reasons already stated.

4725 Mr. Merritt:

Why we claim it is simply a statement that in that trouble that everyone in Danbury did know of it, and know about these things.

Admitted.

Exception taken by the defendant.

Mr. Merritt:

With the consent of the defendants I have made several changes on pages 148 to 152 of the record, which contains the list of the defendants in an admission by the defendants counsel as to the fact that they were members of this organiza-
4726 tion, and as to the period of time during which they were members of this organization.

The first change is that the name of one of the defendants should be Stephen Hevren. After Patrick Jeffrey should appear the date January 1st, 1901. We are putting in these dates subject to correction. That is an admission that Mr. Jeffrey had been a member from Jan. 1, 1901, to the time of the commencement of this action.

After Jeremiah McCarthy on page 150, should be inserted Jan. 1st, 1901.

The third name on page 151 should be Gustav Moughin,
4727 and after the name should appear Jan. 1st, 1901.

After the name John B. Nolan on page 151 should be inserted Jan. 1st, 1901.

After the name Albert Berg, page 151, should be inserted Jan. 1st, 1901.

After the name Peter F. Kearney on page 151 should be inserted January 1st, 1901.

After the name Charles Moore on page 152 should be inserted January 1st, 1901.

After the name S. Wallace Osborn page 152 should be inserted Jan. 1st, 1901.

4728 After the name John R. Rooney, page 152, should be inserted Jan. 1st, 1901.

After the name Charles Smith on page 152 should be inserted Jan. 1st, 1901.

After the name Peter Ward on page 152 should be inserted Jan. 1st, 1901.

And the next to the last name should be William J. Weisheit.

Mr. Merritt:

Now when we read the local constitution of Local Union No. 11, it was with the understanding that that should stand

as the constitution of all of these locals, or you would consider that arrangement. Now we are at the point where we are about to close our case and I want it to appear that there is some governing laws, governing each one of these locals of which each one of these defendants are members. 4729

If you want to leave it that way subject to your right to read some other local constitution, I will be satisfied.

Mr. Mulholland:

We don't anticipate that we will read any other constitution.

Mr. Merritt:

Then subject to correction this Exhibit 10 will stand as the local constitution and local by laws of each one of the local unions Nos. 10, 11, 12, 15 and 16. 4730

Mr. Mulholland:

You don't want to be prejudiced in your right to introduce the others if anything should happen?

Mr. Merritt:

We are satisfied not to read others but are satisfied that this shall stand.

Mr. Mulholland:

We will agree that you shall not be prejudiced in any way, by failing to read into the record the constitutions of the other locals. 4731

Mr. Merritt:

This constitution will stand as the constitution of all of these local unions unless either side shall put in any other.

Mr. Mulholland:

That is correct.

Mr. Merritt:

Now I want to call attention to section 6 of article 10 of plaintiff's exhibit 12, which is the constitution of the United Hatters of North America, in existence in 1900.

Section 6 is as follows: "It shall be the special duty of the directors to look after the shops not under our jurisdiction. They shall use all the means in their power to bring such shops into the trade, and they shall assist the local officers when troubles of a serious nature may occur in any of the districts." 4732

This appeared in the constitution originally adopted by the United Hatters in 1896. It was readopted and reaffirmed at the convention of 1900.

Mr. Mulholland:

We don't know that.

4733 Mr. Merritt:

I assure you I am right on that, and I am just taking a short cut to get at it.

It was readopted and reaffirmed at the convention of 1903 and it was readopted and reaffirmed in the convention of 1907.

I simply want my statement taken subject to correction.

Mr. Merritt:

Now we want at some time to be permitted to read the names of these defendants that appear in the Danbury Directory which was the current directory in 1902 at the time the witness Harvey D. Ward said he resorted to that directory in sending out the warning or notice Exhibit 86, which we issued in this case. I have not the directory here, but I simply want to reserve the right, and I presume defendant's counsel will not object to my having the same right to do that at some later stage in the case.

4734

Mr. Mulholland:

We won't raise that question. We will probably object to your reading it, but as to its being out of order I don't think we will raise any question if it will facilitate things.

Mr. Merritt:

4735 Now, there is one more point remaining here, and that relates to the stipulation which was to be entered into in relation to the continuation of boycotts during the period by the American Federation of Labor.

Mr. Mulholland:

That may be fixed up at any time prior to the closing of the case.

Mr. Merritt:

Very well, that includes a stipulation as to the unfair list and reports of the organizers.

Mr. Merritt:

4736 Have you anything more, Mr. Davenport?

Mr. Davenport:

No.

Mr. Merritt:

Then the plaintiffs rest their case.

Plaintiffs rest.

Mr. Beach:

I offer in evidence some certificates of registry in different states of the Union, of the label of the United Hatters of North America.

Mr. Davenport:

For what purpose is that offered? 4737

Mr. Beach:

It seems to us very material to show, as was stated in my associate's opening remarks, that we not only own the label, but that our ownership of it is recognized and protected by the laws in these several states.

The Court:

Couldn't you make up a list and make it a part of the record?

Mr. Beach:

I will do it right now, with your Honor's permis- 4738
sion.

I have here and offer in evidence certificates of registration of the union label of the United Hatters of North America, and I want to offer them in evidence so I can read from them if I want to.

Mr. Davenport:

All right, I will say no more. I don't think I am saving any time.

The Court:

Why can't you make that one exhibit?

Mr. Beach: 4739

Why, I can.

(At this point Mr. Beach laid in evidence as Exhibit Certificates from the various states of the Union showing the registration of the union label of the United Hatters of North America as follows:)

Defendants' Exhibit B-1 certificate from the state of New Hampshire;

B-2 Certificate from the State of Ohio;

B-3 Certificate from the state of Maryland;

B-4 State of Delaware;

B-5 State of Kansas; 4740

B-6 State of Minnesota;

B-7 State of Missouri;

B-8 State of Vermont;

B-9 State of Georgia;

B-10 State of Wisconsin;

B-11 State of Louisiana;

B-12 State of New York;

B-13 State of Indiana;

B-14 State of New Jersey;

4741 B-15 State of Massachusetts;
B-16 State of Alabama;
B-17 State of Oregon;
B-18 Michigan;
B-19 Pennsylvania;
B-20 Rhode Island;
B-21 Virginia;
B-22 Texas;
B-23 Nebraska;
B-24 California;
B-25 Washington.

4742 Mr. Mulholland:

I propose to read to the Jury a few items from the journals of the United Hatters of North America in reference to this Union Label commencing with Nov., 1898, issue, on page 3, tending to show the methods by which this label was advertised:

"A Practical Plan to Advertise Labels.

The following letter of Mr. Blount to President Gompers, of the A. F. of L., will be especially interesting to those who have been advocating the sending of a man on the road to advertise our label. Here is an opportunity
4743 offered us to carry out that plan at a small expense. The national organization will make a donation to Mr. Blount, and we know the locals will contribute to help him get his outfit to carry the gospel of unionism to our brothers in Dixie:

Dear Sir and Brother: Your favor of the 23d to hand. I wanted to hear from Mr. W. E. Rausch, Sec'y-Treas. of I. U. B. W. before replying to you. His letter came today.

Since you manifest such a kindly interest in the proposed work, I am encouraged to lay before you for con-
4744 sideration the details of my plan.

I have secured the temporary use of a horse and open wagon from a personal friend, who was once a prominent labor man here, so I shall make an earnest effort to induce the national organizations to aid me in raising the sum necessary to buy an outfit that I can own and control for this work."

Mr. Mulholland:

I desire to read now from the Journal of the United Hatters for the month of January, 1899, page 11:

"Label of the United Hatters of England. 4745

Through the kindness of General Secretary Mallalieu, of the Amalgamated Society of Journeymen Felt Hatters of England, we are able to put the Union Label of their association in our collection of trade union labels.

The trade unions of this country have founded in the label the most effective instrument to resist the greed of those who care more for profits and dividends than they do for the rights of those whose skill and toil produce the wealth from which their profits and dividends are drawn.

The condition of our English fellowcraftsmen is as bad, and perhaps worse than our own, and the man who 4746
wears an English made hat without an English union label under the sweatband is personally responsible for most of the evils they suffer from. When you see an English made hat look under the sweatband, and if you find no label there call the attention of the wearer to the crime he is aiding and abetting?"

Mr. Mulholland:

I desire to read now from the Journal of the United Hatters for the month of June, 1899, page 7:

"Would have Union Hats."

Brooklyn, May 20, 1899. 4747

Mr. Editor—I wish to call your attention to an incident which recently occurred in the city of New York and which goes to prove that the friends of the hatters are many, and that they are on the lookout for non-union hats, and for the welfare of the hatters.

There is an athletic club or gymnastic association on the upper east side of New York, known by the name of 'Narodni Jednota Sokolska.' The members are of Bohemian birth or origin. A few weeks ago they wished to procure uniform hats, and, to their great credit be it said, 4748
they stated in their specifications to the bidders for the work that the union label must be in all of the hats. The contract was given out, and when the first lot of the hats were delivered it was discovered by Mr. Josef Wocel, the secretary of the organization, that the labels were not genuine. In consequence of Mr. Wocel being an ex-secretary of the Cigar Makers' Union, he was perfectly familiar with all union labels, and was able to distinguish the hatters' genuine label from the counterfeit. In order to be sure that he was not making any mistake, he con-

4749 sulted the undersigned, and when the labels were inspected they were declared to be counterfeits. The jobber who took the order for the hats stated in writing that they were made at a union factory, and he gave the name of it. The undersigned made an investigation, and discovered that the hats had not been made at the factory mentioned, but had been made at one of the rankest non-union factories in the country. This led to the hats being rejected and the order cancelled. The non-union hats were sent back to the dishonest and lying jobber, and the retailer who had the order for the goods was compelled to give
4750 the work to a union factory."

Mr. Mulholland:

I desire to read now from the Journal of the United Hatters for the month of November, 1900, page 4:

The circular was written by Ernest Howard Crosby. He says in part:

'The principal organizations for the benefit of the wage earner are the trades unions, and they have devised a kind of trade mark, the union label, which is an assurance to the customer that all the employes who had a
4751 part in producing the work upon which this label appears enjoyed fair wages, fair hours and proper sanitary conditions. We know of no other way of obtaining a like assurance, as it is manifestly impossible for each customer to examine into the labor conditions back of the goods he buys.

'We believe the time has come to give hearty support to the efforts of wage earners to help themselves, and one of the best means of doing this is to require the union label on our purchases.

'If it is thought that this is unfair to the workmen, who
4752 have remained out of the unions, it must be remembered that they have usually stayed out for selfish reasons, unwilling to bear a share of the expense necessary to improve their own condition. They have received great benefits from the trade union agitation in their present wages and hours, and it is no more than right to ask them to join the organization which has been their benefactor.

'There are very few non-union men who would not at once join the union if their employer signified his desire that they should do so, and if employers see work going elsewhere because of their inability to supply the

union label they will not be slow to make the recommendation. We believe that such joint action on the part of employers, employes and customers will go far towards harmonizing the interests of all concerned.'" 4753

Mr. Mulholland:

I desire to read now from the Journal of the United Hatters for the month of December, 1900, page 6:

"Woman's Part in Union Label Movement.

Occasionally one sees reference in the press to the Woman's Label League, or some similarly titled organization, says an exchange, and but few stop to think what such a body means, and fewer still have any idea of the field which the ladies are occupying. The existence of this league and the formation of many women's auxiliaries to local unions throughout the country, indicate that woman is going to take her place beside her husband, brother and sweetheart in the fight for unionism... 4754

Some good Hoosier women of the gas belt have declared their intention of assisting in the labor movement in an energetic manner and in their own way. They would not be tied to the support of any particular union, but determined to uphold and advance the cardinal principle of unionism at all times, especially to adhere to that slogan of union labor, 'Boom the Label.' 4755

Convinced that an independent organization would appeal to the hitherto diffident women, the Gas Belt Ladies were incorporated under the laws of Indiana on Feb. 13, 1899. The name selected was the 'Woman's International Label League.'"

Mr. Mulholland:

I desire to read now from the Journal of the United Hatters for the month of July, 1901. Page 3:

"Sermon on the Union Label.

A Baltimore clergyman, in a recent sermon, endorsed the union label in the following eloquent words: 4756

'What can be more sacred, more holy or more deserving of the reverence of men or the angels than the union label, which signifies that human life has been more highly valued in the production of human commodities than the mere profits sought for by greed?

'The label is an emblem of justice, of fraternity, of humanity. When you find a label on a garment or box of cigars, or a loaf of bread, or a piece of printing, you

4757 can be sure that neither was made in a sweatshop, that no little children's fingers were compelled to sew, or sort tobacco in the hours of night intended for childish sleep. When you see this label on any commodity you can buy it with a clear conscience, knowing that in doing so you are not becoming partner to an institution that degrades humanity to private profit."

Mr. Mulholland:

I desire to read now from the Journal of the United Hatters for the month of September, 1901, on page 4:

"The Union Label Labor's Niagara.

4758 The union label is in its formative stage. In the near future it will be the key to the solution of labor's amelioration. Its influence in this problem will be comparable to the great strength of Niagara, and like unto that great torrent, which gains its current from the deep and peaceful waters of the lake from which it issues, so the laboring classes will gain power through the peaceful issue of the union label. Hammer it into our shoes, stitch it in our hats, sew it in our wearing apparel. Have the baker put it on his bread, the painter paint it on his signs, the plasterer plaster it on his walls, the polisher polish it in

4759 his metals, the machinist shape it into his engine, the patternmaker fashion it in his patterns. Have the sailor nail it to the mast and the shipwright carve it to the prow. Have union doctors bow us into the world and union gravediggers usher us out. Let the good work creep on .....It will grow, according to the laws of nature, to be the voice of an enthusiastic people."

Friday, September 20th, 1912, 10:00 A. M., Morning Session.

Witness, JOHN MITCHELL.

4760 Sworn by Mr. Carroll:

The Clerk:

Your full name, Mr. Mitchell? A. John Mitchell.

EXAMINED

By Mr. Mulholland:

Q. Your name is John Mitchell? A. Yes, sir.

Mr. Beach:

Speak up, Mr. Mitchell, so that the Jury can hear you. It is a bad room to hear in.

By Mr. Mulholland:

4761 Q. Where do you reside, Mr. Mitchell? A. Mount Vernon, N. Y.

Q. And how long have you resided in Mount Vernon? A. About three years.

Q. Are you a member of any labor organization? A. Yes, sir.

Q. And what organization, may I ask? A. The United Mine Workers of America.

Q. What if any official position did you ever hold with the United Mine Workers? A. I was president of the United Mine Workers of America.

4762 Q. Well, will you tell the jury between what periods you were President of that organization? A. From September, 1898, until March, 1908, or approximately ten years.

Q. During that time, where were the headquarters of this organization located? A. At Indianapolis, Indiana.

Q. I wish you would tell the jury, if you can, approximately, the number of members the United Mine Workers had in the years 1902 and 1903? A. Well, to the best of my recollection, the organization had about

4763 200,000 members in 1902 and 1903.

Q. And where was their membership at that time chiefly located; that is in what states? A. Chiefly in the Central Western States; Indiana, Illinois, Ohio, Iowa, Kansas, and in Central and Western Pennsylvania.

Q. Any in Alabama? A. Not many.

Q. You mentioned Pennsylvania? A. Yes, Central and Western Pennsylvania.

Q. During the years 1902 and '03 did your organization publish a Journal? A. Yes, sir; the United Mine Workers' Journal.

4764 Q. And where was that published? A. At Indianapolis, Ind.

Q. And state whether or not it circulated generally among your members? A. It had general circulation among the members.

Q. What is the governing body, or what was the governing body of the United Mine Workers of America at that time? A. The Executive Board.

4765 Q. Consisting of how many members? A. At that time of I believe ten members; the membership of that Board has been changed at various periods, but as I recall it was ten members at that time.

Q. And during the years 1902 and '03 who was the President of that Board? A. I was.

Q. Who was the Secretary of the Board? A. W. B. Wilson.

Q. Is that the W. B. Wilson who is now a member of Congress from Pennsylvania? A. Yes, sir.

4766 Q. State whether or not during the year 1902, and up say until October 1st, 1903, you attended all the meetings of that Board which were held during that period? A. I did attend every meeting.

Q. I wish you would state to the jury whether during the years 1902 and up until October 1st, 1903, the United Hatters of North America or any of its officers had made any application to your Board or to you for the endorsement of a boycott on the products of D. E. Loewe & Co. of Danbury, Connecticut? A. No such application was ever made to the Executive Officers of the

4767 United Mine Workers of America.

Q. I wish you would state in that answer do you include any application to the Executive Board? A. No application was made to the United Mine Workers at all, either to its officers or to its Executive Board.

Q. I wish you would state whether or not during the period covered the name of D. E. Loewe & Co. was published in connection with any boycott or unfair list or "We do not patronize" list in the official journal of the United Mine Workers? A. No, such publication ever appeared in the Journal of the United Mine Workers of

4768 America.

Q. I am referring, of course, to the period of the year 1902 up until say October 1st, 1903—I desire to limit your testimony to those periods? A. And my answer refers to the period.

Q. To that period? A. Yes, sir.

Q. I believe that you are also a Vice-President of the American Federation of Labor? A. Yes, sir.

Q. And which Vice-President? A. Second Vice-President of the American Federation of Labor now. I formerly was Fourth Vice-President.

Q. In the years 1902 and 1903 do you recollect which position you occupied? A. I believe Fourth Vice-President; of that I'm not positive. 4769

Q. And, as Vice-President of the American Federation of Labor you were likewise a member of the Executive Council of that Organization? A. Yes, sir.

Q. And were such in the year 1902 and the year 1903? A. Yes, sir.

Q. During the period of the year 1902, and up until say October 1st, 1903, did you attend such meetings of the Executive Council as were held? A. Yes, sir. I might have been absent from some meetings; which I cannot recall that I was. 4770

Q. I will ask you if during that period the United Hatters of North America, or any of its officers, made any application to the Executive Council of the American Federation of Labor for the endorsement of a boycott on the goods of D. E. Loewe & Co. of Danbury, Conn.? A. No such application was ever made to the Executive Council of the American Federation of Labor at any meeting at which I was present.

Q. Of course, again, I am limiting your testimony to the period covered by the question? A. Yes, sir. 4771

Q. Are you familiar with a publication known as the American Federationist? A. Yes, sir.

Q. That is published, I believe, by the American Federation of Labor? A. Yes, sir.

Q. And Mr. Gompers is the Editor? A. Yes, sir.

Q. I will ask you if, during the period of the year 1902, and up until say October 1st, 1903, the name of D. E. Loewe & Co. of Danbury, Conn., was published on any unfair list or "We do not patronize" list of that publication? A. To the best of my knowledge, it was not. I have never seen the publication of the name of Loewe & Co. in the American Federationist. 4772

Q. Can you tell the jury, Mr. Mitchell, when you first heard of the firm of D. E. Loewe & Co.?

The Court:

I suppose the witness meant, at that time; did you not, Mr. Mitchell? A. Yes, sir.

Mr. Beach:

We don't want to go beyond that time.

Mr. Mulholland:

4773 I will abandon that question.

Q. Mr. Mitchell, I will ask you if the American Federation of Labor has taken any action in reference to the payment of any judgment which may be recovered in this case? A. They have taken no action in regard to paying any judgment that may be rendered against the defendants in this case.

The Court:

Has the plaintiff shown anything that tends to show that they have?

Mr. Davenport:

4774 There is a certain resolution here which will very soon be presented to Mr. Mitchell.

The Court:

Proceed.

Q. I wish you would state frankly to the Jury just what action, if any, the American Federation of Labor have taken in reference to this matter? A. The Executive Council of the American Federation of Labor something like two years ago, as I now recall, advised the Hatters' Organization that they must not expect any judgment that would be rendered against the defendants 4775 in this case to be paid by the American Federation of Labor.

The Court:

Did he say they notified—

Mr. Mulholland:

The Hatters.

The Witness:

That is my recollection that they were so notified: at any rate such action was taken by the Executive Council.

4776 Q. Do you know whether the American Federation of Labor has any fund out of which such a judgment could be paid? A. It has no such—no fund from which any judgment of this kind could be paid.

The Court:

This question was not in reference to the payment of attorneys' fees?

Mr. Mulholland:

No, the question was not about the expense of this law suit, but the payment of such judgment as might be rendered. You may take the witness.

4777

CROSS EXAMINATION

By Mr. Davenport:

Q. Mr. Mitchell, before I pass to other subjects, I will ask you whether or not you were present at the Convention of the American Federation of Labor held at Denver, Colo., November 9th to 21st, inclusive, 1908? A. Yes, sir.

Q. You were a delegate there? A. Yes, sir.

Q. From the United Mine Workers? A. Yes, sir.

4778 Q. Were you there as a member of the Executive Council also? A. No, I was there as a delegate from the United Mine Workers of America.

Q. But you were a member of the Executive Council also? A. Yes, sir.

Q. And joined in a report that was made to that body by the Executive Council, did you not? A. Yes, sir.

Q. Now, I am going to read to you a resolution that was adopted by that Convention.

Mr. Davenport:

4779 "Resolution No. 99. Delegate Kemper of the United Brewery Workers of America. Whereas for the past five years the United Hatters of North America have been and are now contending with the non-union hatting firm of D. E. Loewe & Co. of Danbury, Conn., to have established in said firm's factory humane conditions, to wit, a fair earning power and reasonable working hours; and

"Whereas the said firm of D. E. Loewe & Co. having instituted suits against the United Hatters of North America under the Sherman Anti Trust Act for $340,000; and,

4780 "Whereas the said firm of D. E. Loewe & Co. has caused to be attached the homes and personal savings of 250 members of the United Hatters of North America; and

"Whereas the Supreme Court of the United States has decided that the firm of D. E. Loewe & Co. would be entitled to damages if the Court finds that the Company has suffered loss by reason of the withdrawal of the patronage of organized labor and its friends; therefore be it

4781 "Resolved, that the American Federation of Labor in 28th Annual Convention assembled do hereby pledge to the United Hatters of North America and especially to the 250 members of that organization whose homes and bank accounts are attached, moral and such financial support as may be necessary in the pending contention; and be it further

"Resolved, that the Executive Council of the American Federation of Labor is hereby authorized and instructed to take such action as will at the proper time
4782 carry these resolutions into effect. The Committee reported concurrence and recommended that resolution be adopted. On motion the recommendation of the Committee was concurred in."

Now, Mr. Mitchell, do you mean to be understood before this Jury that the American Federation of Labor in Convention assembled did not pass that resolution? A. No, I don't mean to be so understood. It did pass the resolution.

Q. In pursuance to that resolution have any certain steps been taken by the Executive Council of the American Federation of Labor providing for the assumption of
4783 the defense of this suit, the expense of it, and provide an attorney? A. The resolution adopted by the Convention of the American Federation of Labor has provided for the—has authorized the Executive Council to assist in the defense of this suit, but the resolution—

Q. What? A. The defense of this proceeding.

Q. I didn't catch the first part? A. The resolution adopted by the Denver Convention of the American Federation of Labor has authorized the Executive Council to provide for—to assist in the defense of this proceeding
4784 against members of the Hatters' Union; but it has made no provision for the payment of any damage that may be awarded to the plaintiffs, and it has made no provision to assume the responsibility of the defendants in this case should decision be rendered against them. The resolution refers only to the defense of the suit.

Q. Let me direct your attention to several things embraced in this; I understand you to say that the American Federation of Labor never had anything to do with this boycott, did I not? A. If there is any question about it

I would like to have you refer specifically to any statement I made of that kind. 4785

Q. Now let me read this over to you again and see what is embraced in the resolution: "Whereas for the past five years—

The Court:

Well, don't read the whole of it, just the words that you claim. It is simply a question of construction of language.

Q. I will ask you first if you will listen to this: "Whereas for the past five years the United Hatters of North America have been and are now contending with 4786 the non-union hat firm of D. E. Loewe & Co. of Danbury, Conn., to have established in said firm's factory humane conditions, to-wit: a fair earning power and reasonable working house." And then the resolution: "Resolved that the American Federation of Labor in 28th Annual Convention assembled do hereby pledge to the United Hatters of North America and especially to the 250 members of that organization whose homes and bank accounts are attached, moral and such financial support as may be necessary in the pending contention." I will ask you whether in view of what is said in the first 4787 "Whereas" and the resolution that I have just read you wish to say that the American Federation of Labor never entered into a boycott that has been conducted for the last five years against this concern?

Mr. Mulholland:

Now that is objected to because it is 1908, and no such possible construction can be placed upon the testimony.

Mr. Davenport (Interrupting):

Well, I may perhaps have to vary my question a little, 4788 but before I pass from that phase of the matter, do you observe anything in that resolution that limits the obligations of this organization to the expenses of this suit? A. Yes, sir.

Q. What is it? A. The language of the resolution itself refers to a pending question: the question pending was a law suit by Mr. Loewe & Co. against the United Hatters of North America. The convention had before it that pending question as referred to in this resolution—that law suit; and the Convention directs the Executive Council to provide for

4789 the defense of the law suit, not for the payment of any damage that might be awarded against them.

Mr. Davenport:

Well, I will ask you, Mr. Mitchell, whether you know of any resolution adopted at a convention of the American Federation of Labor that limits or alters in any way the scope of this resolution? A. I know of no resolution adopted by the American Federation of Labor that either limits or extends the scope of that resolution, which was that the Executive Council—

The Court (Interrupting):

4790 That answers the question.

The Witness:

May I answer?

The Court:

I say you have answered the question. As I understand it, the question is whether any other resolution has been adopted, and I understand you to say not to your knowledge?

The Witness:

Not to my knowledge.

Mr. Davenport:

4791 But your construction of it is that this language "Whereas for the past five years the United Hatters of North America have been and are now contending with the non-union firm of D. E. Loewe & Co., of Danbury, Conn., to have established in said firm's factory humane conditions, towit: a fair earning power and reasonable working hours" refers to a law suit, is it? A. The resolution, and not the Preamble, defines the resolution.

Q. Well, do you consider that the "Whereas," as was read to you, relates to a law suit? A. If read without the —separating it from the resolution itself it might mean anything, but it can't be read that way; the resolution not the preamble.

4792

Q. Well, so far as the preamble is concerned, do you consider that as limiting it, as applicable to a law suit? A. It has reference to a law suit.

Q. Now let me read it over again.

Mr. Davenport:

"Whereas for the past five years the United Hatters of North America have been and are now contending with the non-union hat firm of D. E. Loewe & Co., in Danbury, Conn., to have established in said firm's factory humane conditions,

towit, a fair earning power and reasonable working hours;" 4793
do you understand that that refers to a law suit? A. I understand that it is a statement preceding a reference to a law suit.

Q. Now the second "Whereas the said firm has instituted a suit against the United Hatters of North America under the Sherman Anti Trust Act for $340,000.00, and Whereas the said firm of D. E. Loewe & Co. has caused to be attached the homes and personal savings of 250 members of the United Hatters of North America, and whereas the Supreme Court of the United States has decided that the firm of D. E. Loewe & Co. would be entitled to damages if 4794
the court finds that the company has suffered loss by reason of the withdrawal of the patronage of organized labor and its friends, therefore be it resolved that the American Federation of Labor in 28th Annual Convention assembled, do hereby pledge to the United Hatters of North America and especially to the 250 members of that organization whose homes and bank account are attached, moral and such financial support as may be necessary in the pending contention; and be it further resolved that the Executive Council of the American Federation of Labor is hereby authorized and instructed—authorized and instructed to take such action as 4795
will at the proper time carry these resolutions into effect." Do you say that your understanding of that is that it is an instruction and an authorization to the Executive Council only to bear the expenses of the litigation? A. Only to assist in bearing the expenses of litigation.

Q. Well now, Mr. Mitchell, did you attend the meetings of the Executive Council in Washington held September 20th to 25th, 1903, at Washington? A. I can't recall. The record will probably show.

Q. I show you abstract of the minutes of that meeting published in the American Federationist for the month of November 1903 in which it appears "Meeting called to order 4796
at ten o'clock with President Gompers presiding. Roll call Gompers, Duncan, Mitchell, Morrison?" A. Yes, that indicates that I was present.

Q. Well do you recall being present? A. I can't recall from memory.

Q. Well do you recall a visit paid to the Executive Council by Mr. Moffitt and Mr. Connolley in reference to this Loewe suit? A. No, I can't recall it.

4797 Q. You are acquainted with John A. Moffitt, are you not? A. Yes, sir.

Q. You have known him a good many years? A. Yes, a dozen years, I think.

Q. And as President of the United Hatters of North America? A. I knew him when he was President.

Q. And you knew also that he had frequently been a delegate to the conventions of the American Federation of Labor? A. Yes, sir.

Q. As delegate from that body? A. Yes, sir.

4798 Q. And you know also, do you not, that he is at the present time a member of the Legislative Committee of the American Federation of Labor at Washington? A. Yes, sir.

Q. Now see if this brings anything back to your mind "John A. Moffitt and P. H. Connolley, representatives of the United Hatters of North America appeared in regard to suit for damages filed against the United Hatters of North America and the A. F. of L. by D. E. Loewe & Co. in the Federal Court for a hundred thousand and in the Connecticut Court for Two Hundred and Forty Thousand against the United Hatters of North America. The representatives of the United Hatters of North America stated that their at-

4799 torney advised that it might be wisdom on the part of the A. F. of L. to have an attorney present when the case was heard in the State Court so that he would be familiar with and in a position to protect the interests of the A. F. of L." Does that bring to your mind anything about what is there recorded? A. I think I recall a statement of that character being made to the Council.

Q. Do you recall the visit of Mr. Moffitt? A. I am not—my memory is not clear on that.

Q. What is that? A. My memory is not clear as to the circumstance, although I believe I recall that matter being

4800 brought before the Council.

Q. Can you recall any of the details? A. No, I cannot.

Q. Has your attention been called to that meeting since, that you now recall? A. No, sir.

Q. Do you recall whether or not this action was taken: "It was ordered that the matter of securing counsel to protect the interests of A. F. of L. in the damage suit entered by D. E. Loewe & Co. of Danbury, Conn., be referred to President Gompers and Vice-President Duncan to take such action as occasion might warrant to protect the interests of

A. F. of L. and the Executive Officers therein." Do you re- **4801**
call anything about that action being taken? A. Yes, I recall that action being taken.

Q. Can you give the details? A. I think there are no details. As I recall the suit originally made the members of the Executive Council of the American Federation of Labor defendants in the case, and that the Executive Council made provision for being represented by counsel and that the action you have just referred to provides for the representation of the American Federation of Labor to protect the interests of the defendants who were members of the Executive Council.

Q. And was confined to that, you think? A. I am not **4802**
sure about that.

Q. Well, did you join in a report of the Executive Council to the American Federation of Labor in 1903 at Boston (showing witness book)?

Mr. Davenport:

The page of the report is 96, Executive Council's report November 11th, 1903. "To the Officers and Delegates to the 23rd Annual Convention of the American Federation of Labor, Greeting. The Executive Council has the honor to submit to you its annual report, treating such various matters referred to as require your attention **4803**
and should receive your consideration."

Now I read from page 90 under the head of "Suits at Law."

"Recently a firm in Connecticut sued the members of our United Hatters Association of North America and associated us in a suit for damages to the amount of $340,000.00. The suit was brought both in the Federal and the Connecticut State courts. We have taken such action as will protect our rights and interests as well as being helpful in every way we can to our affiliated organization;" do you know what the reference was to "Being **4804**
helpful in every way to our affiliated organization" in addition to protecting the interests of the members of the Executive Council? A. Do I know what it means?

Q. Yes? A. Yes, sir.

Q. What was it? A. It means that they would assist the United Hatters of North America in defending the suit instituted against them.

Q. At that time? A. Yes, sir.

4805 Q. Well, now that was in 1903; now with that in view do you say that the resolution passed in 1908 was limited to giving assistance in the defending of the law suit? A. Oh, certainly; certainly the two acts are entirely on a par, and the fact of the matter is that one simply proves my explanation of the other that the Executive Council in the first instance at the Boston Convention—that this report was made or statement of what they had done, and then reported what they had done in the Denver Convention some years later, and the Executive Council are simply authorized there—given authority
4806 for what they had done.

Q. Five years later? A. Exactly. That is the position of the American Federation of Labor in all matters of this kind, that they assisted in the defense of a suit that interpreted the legal status of organized labor.

Q. Well now, Mr. Mitchell, this resolution provides that they are authorized and instructed to take such action as will at the proper time carry this resolution into effect; what did you understand was the proper time? A. Oh, the time the case was tried; the proper time to secure attorneys to prepare the case.

4807 Q. Well, at what time did your Executive Council take the action pursuant to this? A. They had taken action early when the proceeding was instituted, the proceeding which included the American Federation of Labor as defendant, and including the officers individually as is indicated in the report to the Boston Convention.

Q. Did you employ counsel? A. I can't recall.

Q. Did you contribute anything to the carrying on of the defense of the law suit? A. I can't—

Q. (Interrupting) Prior to 1902? A. The matter of what the payments were I have not got.

4808 Q. Were you cognizant of the fact that a petition of intervention was filed in the Supreme Court in behalf of the American Federation of Labor? A. Yes, sir.

Q. At the time, and that counsel was employed? A. I was aware of it after the motion for intervention had been made.

Q. Well now, Mr. Mitchell, this action was begun in 1908; the last trial was in the fall of 1909 and early in 1910; did the American Federation of Labor contribute anything towards that? A. My recollection is that coun-

sel was authorized and counsel which represented them assisted in selecting counsel. 4809

Q. In defense of this suit? A. In defense of this suit.

Q. When it was tried in 1909? A. Yes, sir.

Q. And were payments made at that time? A. Of that I am not aware because I have nothing at all to do with the financial affairs of the organization.

Q. Well, you are one of the Executive Council? A. Yes, sir.

Q. Now, Mr. Mitchell, how long have you been connected with the United Mine Workers of America? A. 4810
As a member?

Q. Yes? A For twenty years.

Q. And during what period of that time was the United Mine Workers a constituent organization of the American Federation of Labor? A. All of that time.

Q. When did you first become an officer in the United Mine Workers? A. In—you mean the local?

Q. First the local? A. Oh, in 1893 or '4.

Q. And when did you become the Vice President of the United Mine Workers? A. In January, 1898.

Q. And when did you become President? A. In 4811
September, 1898.

Q. And from that time on did you continue to be a member of the Executive Board of the United Mine Workers and its President? A. Yes, sir.

Q. Until you retired in what year? A. On the last of March, 1908.

Q. And did you go to the Conventions of the American Federation of Labor as a delegate during that period ever? A. Yes.

Q. How often? A. Well, with two exceptions, I was there each year as a delegate from the United Mine 4812
Workers of America.

Q. During what period? A. From 1898 until the present time.

Q. That is from 1898 to 1903 surely? A. Yes, sir; there being one exception. I was not at the New Orleans Convention in 1902.

Q. Now how many locals were there in the United Mine Workers? A. At what period?

4813 Q. Well, during the period 1901, '2 and '3? A. Well, I can only answer that based upon—I can estimate it. I have no recollection. I should say, oh, fifteen or eighteen hundred, perhaps twelve hundred; there may have been as low as twelve hundred.

Q. Well, they are scattered about in Pennsylvania, West Virginia— A. At that time they were confined largely to Central Pennsylvania and Western Pennsylvania.

Q. Did you have any in West Virginia? A. Very few of them.

4814 Q. Did you have any? A. I can't recall; I think not over probably four or five, and may be they had a dozen.

Q. Ohio? A. Yes, sir.

Q. Indiana? A. Yes, sir.

Q. Illinois? A. Yes, sir.

Q. Kentucky? A. Perhaps a few in Kentucky; of that I am not clear. In other words, our organization had few locals in the southern states during the period to which you refer.

Witness:

4815 I say the United Mine Workers of America had very few local unions in the states south of the Ohio River, and I can't recall, after a lapse of ten years, how many locals there were in each territorial division.

Q. I want to know in the first place whether there were any in Kentucky? A. Yes, I believe there were a few.

Q. Missouri? A. Yes.

Q. And Oklahoma? A. A few in what was then the Indian Territory.

4816 Q. Now that organization, the United Mine Workers of America, with its local, were all subject to the constitution of the American Federation of Labor, were they not? A. Subject to the constitution of the United Mine Workers of America.

Q. Yes, and they in turn with the American Federation of Labor? A. I think not. I think you misconceive entirely the relationship of the United Mine Workers of America to the American Federation of Labor as you equally misconceive the relationship of any international union to the American Federation of Labor.

Q. Well, what is that? A. Each organization— 4817
each international or national organization is entirely self governing; that is to say it retains absolutely its own autonomy. It governs itself. Its affiliation to the American Federation of Labor gives the American Federation of Labor no direction over the affairs of an affiliated organization. That is the basis upon which the American Federation of Labor is founded; the right of each separate organization to govern itself.

Q. Well, when they become affiliated to it don't they agree to become under the constitution of the American Federation of Labor? A. Yes, but they accept no 4818
direction from the American Federation of Labor.

Q. Well, that is another proposition, but they come under its constitution whatever it is? A. If the constitution of the American Federation of Labor were at all in conflict with the constitution of the international union, of course the constitution of the international union would govern.

Q. Well, on what principle? A. Because they each retain their own autonomy.

Q. Now, Mr. Mitchell, each of those locals has a Secretary does it not? A. Each local of the United Mine 4819
Workers of America?

Q. Yes? A. Yes, sir.

Q. And what is the relation of those locals to the various state federations of labor? A. Oh, perhaps none at all.

Q. What? A. In most instances there was no relation at all.

Q. Are they not required by the constitution of the American Federation of Labor to connect themselves with the Central Labor Unions? A. No. They are not required to do so. The American Federation of Labor 4820
would desire them to be part of the Central Labor Unions, but there are few central labor unions in the mining districts.

Q. But wherever there are central labor unions? A. In most instances miners' organizations are not a part of them.

Q. Are they not under the constitution required to be? A. No.

4821 Q. And the international unions required to demand of their unions that they connect themselves with such? A. The American Federation of Labor can make no such requirement. It may and does encourage the international unions to have their locals affiliated with central bodies, but the American Federation of Labor cannot say to an international union you must do anything, because, as I say, it is a selfgoverning association, and the mining industry as you know is an isolated industry, not in great centers of population.

4822 Q. Now I will ask you whether in the State of Pennsylvania you know the Miners' Locals were not members of the State Federation of Labor? A. I can't say positively, but I think not; and if they were it was only in very few instances.

Q. How about the State of Ohio? A. I don't know at that time that they were a part of the State Federation, alhough they may have been.

Q. Do you know for certain? A. No, I don't.

Q. And in the State of Illinois? A. Some of them were part of the state federation, and some were not.

4823 Q. How many? A. I don't know; it is a matter that wouldn't come under my direct supervision.

Q. And in the State of Missouri? A. I don't know whether any of our organizations at that time were a part of the central bodies.

Q. Now, these central bodies in the American Federation of Labor, what part do they play in the organization? A. In matters affecting the interest of labor in the cities where there are central organizations they cooperate one with each other for the mutual—for the advancement of the interests of labor.

4824 Q. Is it not a part of the work of the American Federation of Labor to create those organizations? A. The central bodies; yes, sir.

Q. And are you aware about how many there were then in 1902 and '3, holding charters from the American Federation of Labor? A. No, I can't recall.

Q. Do you know whether or not any of the central labor union with which the Miners' locals were affiliated took part in any of these boycotting operations? A. What boycotting operation?

Q. Any boycotting first?

Mr. Mulholland: 4825

That is objected to as not proper cross examination.

The Court:

It has been passed upon.

Mr. Mulholland:

Exception.

A. Not to my knowledge.

Q. You have no knowledge on the subject? A. No.

Q. Perhaps I can shorten this matter, Mr. Mitchell, by inquiring of you whether or not your knowledge in regard to this matter is confined to the fact that no mention of the D. E. Loewe & Co. concern appeared in the Journal 4826 of the United Mine Workers of America prior to the commencement of this suit, and that so far as you know no action was taken by the Executive Council or the Conventions of the American Federation of Labor prior to the commencement of this suit? A. That is correct. My statement has been that the United Mine Workers of America and the American Federation of Labor have taken no action in regard to this alleged boycott and that, so far as I know, the local unions of the miners had never taken any action in regard to it. In other words the first information I had about this alleged boycott came when 4827 the suit was instituted against the Hatters Organization, the American Federation of Labor and its officers.

Q. Now, Mr. Mitchell, what I want to know is whether or not you have absolute knowledge yourself that the American Federation of Labor in its Conventions never took any action in regard to this boycott? A. None, that I know of.

Q. That is it; not as far as you know did the Executive Council take action? A. The Executive Council took no action.

Q. How do you know? A. Well, I speak as to the 4828 best of my knowledge, just as I speak of anything, to the best of my knowledge.

Q. So far as you know, they did not? A. No.

Q. Do you read the American Federationist? A. Yes.

Q. Have you read it pretty regularly? A. Oh, I read it. Yes, I should say that I read it. Not always, but I usually do.

4829 Q. Now, you knew of the decision of the Supreme Court of the United States in regard to this Loewe case, did you not, at the time it appeared? A. Yes, sir.

Q. I will ask you whether or not it has been called to your attention that in nearly every month's issue of the Federationist following that decision—

Mr. Davenport:

In the editorial column there has appeared a statement by the President of the American Federation of Labor that there is no law to compel any one to buy a

4830 Loewe hat. A. I am not aware that the statement has appeared in every issue of the American Federationist, and my attention has not been called to it. I have read a statement of that kind in the American Federationist; I assume, of course, that there wasn't anybody directed attention to the article.

Q. Well, what I want to know is whether you have observed in the editorial columns of the American Federationist after that decision was made a statement of that kind several times? A. I don't know that I have read it several times. I perhaps have read it once.

4831 Q. Well, you have been present in Washington when this whole matter has been under investigation, haven't you? A. By the Court?

Q. In the Court? A. No.

Q. And inquiry had in regard to these matters? A. I never was present when this case was under consideration; no.

Q. Mr. Mitchell, about what is the membership of the American Federation of Labor now? A. I think about 1,800,000.

Q. And what was its membership in 1902? A. Oh,

4832 I can't say, but I presume about a million.

Q. Well, the members are scattered all over the United States, are they not? A. Yes, sir.

Q. In most all, if not all, of the states of the Union? A. Yes, sir.

Q. And they have been so since 1902? A. Yes, sir.

Mr. Davenport:

I think that is all.

4833

RE-DIRECT EXAMINATION

By Mr. Mulholland:

Q. Mr. Mitchell, your attention has been directed to a statement in the editorial columns of the American Federationist; who do you say is the editor of the Federationist? A. Samuel Gompers.

Q. And who, if anyone, has control over the editorial columns? A. Mr. Gompers.

Q. I will ask you whether or not the Executive Council or any other officers of the American Federation 4834
of Labor have any control over the expressions published under what is commonly known the editorial page? A. They have not.

Q. What are those editorials in so far as the use of the expressions they contain? A. The laws of the American Federation of Labor themselves constitute the President of the American Federation of Labor the Editor of the American Federationist, and the editorials appearing in the American Federationist—are the expressions—express the opinions of the editor. They are editorials
and Mr. Gompers' expressions, and he alone is responsible 4835
for them.

Q. Your attention was called to a resolution adopted—

The Court:

Did you say he alone was responsible.

Witness:

Yes, Your Honor.

Mr. Mulholland:

I think the court may be putting it on legal responsibility. We are referring merely to an expression of opinion. 4836

The Court:

You mean responsible for the language that is there?

The Witness:

Yes, Your Honor; I mean that the editor is responsible; they are his utterances; his personal utterances.

Q. You mean that it is his personal opinion in reference to the matter of which he gives an expression? A. Yes, sir.

4837 Q. Your attention has been called to a resolution adopted, I believe, at the Denver Convention, in reference to the attitude of the American Federation of Labor towards this litigation? A. Yes, sir.

Q. During the period of the year when there is no Convention in session what is the governing authority of the American Federation of Labor? A. Its Executive Council.

Q. I will ask you if at any time since the Denver Convention the Executive Council of the American Federation of Labor have interpreted the resolution adopted at that conven-

4838 tion, which was read to you? A. Yes, sir.

Q. And can you tell the jury about when that was? A. My recollection is that it was about a year and a half ago. It may have been two years ago, and may not have been more than a year ago but their interpretation of the resolution adopted by the Denver Convention was that the American Federation of Labor was to assist in the legal defense of this proceeding, but that it was not to assume the responsibility of paying any award that might be rendered against the defendants in this case; and that was their construction of the resolution adopted by the Denver Convention, and that is what they

4839 have done.

Q. I will ask you whether or not this is the time that you say the Secretary was instructed to so notify the Hatters' Organization? A. That is my recollection; and I qualified my statement in that respect that I was speaking purely from recollection as to what direction was given the Secretary.

Mr. Mulholland:

I think that is all, Mr. Mitchell.

RE-CROSS EXAMINATION

4840 By Mr. Davenport:

Q. Mr. Mitchell, I wanted to call your attention to the provisions of the constitution of the American Federation of Labor in 1901, 2 and 3, in Section 1 of Article 6, under the heading of "Duties of President, Section 1. It shall be the duty of the President to exercise supervision of the Federation throughout its jurisdiction." Do you know whether or not that provision has been in the constitution? A. I don't doubt it at all.

Q. And when they established the American Federationist was it not provided that the President of the Association—

of the Federation, should be the editor? A. I doubt that 4841
that was done when the American Federation of Labor was formed, but it was afterwards made a part of the law; I can't recall that they then provided for the publication of the American Federationist.

Q. Well, that is a matter of record and all in the testimony here. Now Mr. Gompers, as President of the American Federation of Labor makes a report to the Annual Conventions, does he not? A. Yes, sir.

Q. Which is read—handed to the Convention by him, is it not? A. Yes, sir.

Q. And is referred to Committees? A. Yes, sir. 4842

Q. And these Committees report upon it, and the convention takes action in regard to it afterwards, do they not; on those reports? A. Usually.

Q. Now, Mr. Mitchell, do you want to be understood as saying that the views expressed by Mr. Gompers in the editorial column of the American Federationist do not speak in the name of, and in behalf of the organization of which he is President, and which is issuing this Journal—this magazine? A. They express his views in regard to all the subjects that are discussed editorially.

Q. Do you mean personally or as a representative of the 4843
organization? A. Well, they are his personal views.

Q. Well, in what capacity is he expressing them? A. As editor of the American Federationist.

Q. Published by the American Federation of Labor? A. Yes, sir.

Q. And in what he speaks about himself as President and what he does as President, he speaks as President, does he not? A. Well, he speaks as Editor of the American Federationist. Of course it may not be possible to separate himself from his Presidency of the Federation.

Q. Now have you knowledge yourself, Mr. Mitchell, 4844
of action having been taken by the American Federation of Labor Conventions in regard to declarations made by Mr. Gompers in reference to the boycott?

Witness:

Yes, I have knowledge of action by the Convention in regard to Mr. Gompers' discussion of the subject of boycotts.

Q. And approval of them? A. By the Convention?

Q. Yes, sir? A. I think the Conventions have never acted on a boycott in approval or otherwise.

4845 Q. Of what; of boycotts? A. Yes, sir.

Q. You don't mean—are you sure about that? A. Well, I said that I think they haven't.

Q. You think they haven't; that all of the conventions of the American Federation of Labor which you have attended you think they have never acted upon boycotts? A. I believe they haven't acted on the question of a boycott; by that I mean the question of levying or endorsing a boycott. My recollection is that they have endorsed the proposition that men shall control their own purchasing power—men shall have a

4846 right either individually or collectively to spend their own money as they see fit.

Q. Your impression is that the Conventions of the American Federation of Labor have never approved, endorsed, or levied any specific boycotts against individual firms; but that it has been confined to a general expression of the right of the individual to buy where he pleases and spend his money where he pleases; is that so? A. Yes, sir.

Q. Have you examined the proceedings of those conventions? A. No; I have been present at them, and my recollection is based upon the fact that I was present.

4847 Q. Well, did you ever hear the reports of the committees on boycotts read, and been present when the—

Witness:

(Interrupting.) Yes, sir.

Q. And you have never known of the Convention acting on a particular boycott? A. I don't recall of them acting, endorsing, a particular boycott; and certainly never originating a boycott.

Q. Is it not a part of the duties of the Executive Council, under the Constitution, to report in regard to the boycotts that they have themselves declared during the year, and to sub-

4848 mit it to the Convention for its approval? A. The Executive Council never declares a boycott.

Q. What does it do in that connection? A. It may endorse or refuse to endorse a boycott that has been originated by the members of an international union.

Q. That is endorsing it. State whether or not it is the duty of the Executive Council to report on such questions, under the Constitution, to the Convention for approval? A. It does. The Executive Council does make such a report.

Q. And haven't you repeatedly joined in such reports? A. Yes, sir.

Q. And are those referred to a Committee on boycotts that report? A. Well, I don't know that that is the name of the Committee. I think it is the Committee on Labels; however it is referred to a Committee. 4849

Q. Haven't you a standing Committee on Boycotts? A. I am not sure that that is its name; that there is a Committee—

Q. (Interrupting.) How long since you have looked at the Constitution of the American Federation of Labor with reference to that matter? A. Well, I haven't looked at it at all.

Q. Never have looked at it? A. Oh, perhaps. I don't recall having looked at it with reference to the matter to which you now refer. Perhaps the Committee is known as the Committee on Boycotts, but if not, I might say it is technically known as the Committee on Labels. Of that I am not sure. 4850

Q. Well, is it not, and has it not been from the commencement of the American Federation of Labor a requirement that there shall be a Committee on Boycotts? A. I don't know.

Q. Well, I will call your attention to the Convention Proceedings of the year 1901; did you attend that as a delegate? A. Yes, sir.

Q. I will ask you whether or not— A. One moment, —I wish to withdraw that answer. The 1901? Where was it held? 4851

Q. Held at Scranton, I think? A. Yes, I was present.

Q. And as to the action of the Conventions of the American Federation of Labor, do you wish to be understood as testifying, subject to correction by the record? A. I wish to be understood as testifying just as I have testified, that what I said is exactly the facts as I recall them.

Q. Well, might you be mistaken about that? A. Well, I was very careful to say in respect to this one question that I spoke to the best of my recollection. 4852

Q. Well, now, when you are testifying in regard to any official action by the American Federation of Labor, its Executive Council, or its Conventions, you are testifying to the best of your recollection, are you not? A. Yes, sir.

Q. And wheresoever there is a record of the matter, if that conflicts with your testimony, do you wish to have your testimony taken subject to correction by that? A. Well, I find it difficult to answer that question, unless I see the record. I want to know from what record. Inadvertently I did testify

4853 in one instance, and it wasn't the record I thought it was. Now it depends on the record.

The Court:

Well, in view of that answer, if you specifically call his attention to the record, we will take a record.

The Witness:

Couldn't you get through with me?

Mr. Davenport:

I have only a few questions to ask him, Your Honor, and the Witness wants to get off.

4854 Q. I call your attention to a resolution that was introduced at the Scranton Convention—by the way, were you at the Detroit Convention, 1899? A. Yes, sir.

Q. To this resolution No. 51 "Of Delegates Maher and Sculley; Whereas the United Hatters of North America are at the present time engaged in a strike of large proportions at the factory of F. Berg & Co., Orange, N. J., for a recognition of their union, and for union conditions; and

"Whereas this strike has now lasted about two months, and it is of vital importance not only to the Hatters' organization but also to organized labor in general, that the United

4855 Hatters of North America should be victorious in the fight which they are making for the existence of their union; and

"Whereas the United Hatters of North America have never refused to give assistance, financial and otherwise to their brethren who have asked for it; therefore be it

"Resolved that this Convention hereby endorses and approves of the course pursued by the United Hatters of North America in their present fight against the wealthy concern that has declared it will never recognize any labor union.

"Resolved that we call upon all the International National and Local Unions affiliated with the American Federa-

4856 tion of Labor to give assistance to the United Hatters of North America in the unequal fight which they are at present so manfully making against wrong and oppression, by refusing to patronize any dealer, or dealers, who handle the product of non-union hatters, and more particularly the product of F. Berg & Co., of Orange, N. J. Adopted."

Now that is the record. Do you say that the American Federation of Labor, in convention assembled, never declares a boycott or endorses one (handing witness copy of Convention Proceedings from which the foregoing resolution was

read)? A. This resolution, was it adopted by the Convention of the American Federation of Labor? 4857

Q. Yes, sir; adopted right off there? A. If it was adopted, of course that means in that far that my recollection is wrong.

Q. And if I should find, or point out to the jury a hundred cases of that kind, you would accept the record as proof of the fact; especially as it is so long ago, in preference to your recollection, would you not? A. I would accept the record in each case in preference to my own recollection.

Mr. Davenport:

That is all, Mr. Mitchell. 4858

Mr. Mulholland:

I think that is all, Mr. Mitchell.

Witness,

WILLIAM HUMPHRIES,

Sworn by Mr. Marvin.

EXAMINED

By Mr. Mulholland:

Q. Will you state your name in full? A. William Humphries.

The Court: 4859

Recess for fifteen minutes.

Recess.

Q. Mr. Humphries, I want to suggest that you will have to talk pretty loud so that the last man on the jury over there can hear you? A. Well, I am pretty short of hearing myself; you will have to talk pretty loud too?

Q. You will have to speak a lot louder than that; I know this gentleman back here can't hear, and you want to make them all hear? A. Well, I will try to.

Q. Yes; where do you live? A. I live in Danbury.

Q. And whereabouts in Danbury? A. I live at 9 4860 Stevens Street in Danbury.

Q. You are a defendant in this case? A. Yes.

Q. And a member of the Hatters' Organization? A. I am, yes, sir.

Q. How long have you been a member of the Hatters' Organization? A. Well, I have been in the hatting business since 1854; but I wasn't a member all the time.

Q. What branch of the trade have you been employed at? A. Finishing. I went first to making where they done

4861 all their own work; they done the knapping and their own bowing and everything. I didn't work at that long. I was taken with typhoid fever and I had to go out.

Q. But the remaining years you worked in the Finishing Department? A. Yes; I worked at finishing since 1865, or '66.

Q. What is your age? A. I am seventy-seven the 16th of December.

Q. How long have you lived at Danbury? A. Well, I went to work there in 1854.

4862 Q. And have you worked continually at the Hatters' trade since then, except when you had the typhoid fever? A. Well I was in the army three years.

Q. That is the Civil War? A. The Civil War.

Q. Then after you returned from the war where did you go to live? A. Went to live in Danbury.

Q. And have been there ever since, have you? A. Yes, sir.

Q. May I ask you if you have been at the hatters trade constantly in Danbury since the Civil War? A. No, I have been in different places; I went to Newark once in 1867. I was there probably three months.

4863 Q. But your home has been in Danbury all the time? A. My home has been in Danbury. I worked in Bethel, but my home has been in Danbury, and my residence was there, of course.

Q. Did you ever work for Mr. Loewe? A. No, sir; I never did.

Q. Have you ever been in his factory? A. Oh, yes; yes, I have.

Q. Do you know Mr. Loewe? A. Know him very well; know him personally.

4864 Q. How long have you known him? A. Oh, I couldn't tell you; it is a long time.

Q. Do you live in the same part of the city where he lives? A. No, I don't; he lives way on the extreme south; on Deer Hill, quite a ways. Mr. Loewe and I was on the Board of the Hospital together; I believe we were.

Q. Do you remember the time when a strike occurred in the Loewe plant in the year 1902? A. I didn't know anything about it at all at that time. I read of it afterwards. I didn't know anything about it at that time.

Q. How long was it after the strike occurred that you first heard of it? A. Probably a week or ten days. 4865

Q. Did you know prior to the strike that the men there were going out on strike? A. No, sir; I didn't.

Q. Had you heard anything about it at all? A. I didn't; not a word from anybody.

Q. Since you were fifty years old you have been what they call an honorary member of the Hatters' Union? A. Yes, sir; exempt from paying dues and from attending meetings.

Q. Then since you were fifty years of age you have been exempt from paying dues or attending meetings? A. Well, I did pay—I paid percentage one year; since 18—well probably four or five years ago; I couldn't tell, but one year when I paid percentage for one year—a little over; two years probably. 4866

Q. Then do I understand that with the exception of that year or two for nearly twenty-seven years you haven't been attending meetings? A. No, sir. I wasn't required to.

Q. Were you personally acquainted with any of the officers?

The Court:

Did he state that he wasn't required to; was he excused by the action of the Union? 4867

Mr. Mulholland:

Their body excuses them after they are fifty, I believe.

Q. Now you say that you heard of this strike at Mr. Loewe's some days after it occurred? A. I saw it in the paper.

Q. In what paper? A. In the Danbury paper. I think the Evening News—I know it was.

Q. I will ask you if you have been in the habit of reading the Hatters' Journal, so called? A. I never read it. I one time went to the bench and I opened it, and I looked at the page, and I was called away, and I never looked at it afterwards. I worked by the week for the last seventeen years and I had no time to do anything of that kind. 4868

Q. As I understand you, you have never read anything in the Hatters' Journal? A. No, sir; I never read it and never carried it home.

Q. Did you ever see a publication known as the American Federationist, published by the American Federation of Labor? A. No, sir.

4869 Q. Did you ever see a copy of it? A. No, sir; never saw a copy of the paper; never knew that they had one—that they issued one.

Q. Now I understand you to say that you did read something from the Danbury News? A. Yes, I did; a week or ten days after. I don't know whether it may be ten days; maybe about a week, but I did read it.

Q. Have you ever been a delegate to any convention of the United Hatters? A. I was a delegate in, I believe, 1868.

Q. And during the last twenty years were you ever a delegate? A. No, sir; I wasn't.

4870 Q. You go back beyond my time. Were you ever a delegate to any of the conventions of the American Federation of Labor? A. No, sir; I never belonged to it that I know of.

Q. Did you ever vote in an election where any delegates to those conventions were selected? A. Never.

Q. Well, you have known very little about the United Hatters during the last twenty-seven years? A. Well, nothing more than just my observation by working with them. I didn't read none of their literature because I couldn't see very good and I hadn't time to do it.

4871 Q. Let me ask you during the past fifteen years what has been the condition of your eyesight? A. Oh, it has been very poor. It is so poor now I can't—

Q. I wish you would tell the jury to what extent you can use your eyes in reading? A. I can't read—

Q. Or what that condition was in 1902? A. Well, I can read, but I have got to take off my glasses and read with the naked eye. I can find no glasses I can read with.

Q. During the years, say 1902 and '03 how extensively could you use your eyes in reading? A. Not very well, for a long time.

4872 Q. You have not attended any meetings of your union since the United Hatters' Organization was formed, have you? A. I don't understand.

Q. Do you know what I mean by the United Hatters of North America? A. I do.

Q. That is the name of the organization at the present time? A. At the present time. It didn't used to be.

Q. That was formed, I believe, in 1896? A. I think it was.

Q. Did you attend any meeting of your union since that time? A. Oh, I might have gone there for an hour or

so in the forepart of the evening; but hardly ever; hardly ever; only I might go there and hear the minutes read, or something of that; that is all; but never heard any discussion or anything. 4873

Q. Now, Mr. Humphries, I want to ask you if prior to this Loewe trouble you had any knowledge that the officers of the United Hatters of North America were carrying on boycotts in states outside of Connecticut? A. No, sir; I didn't.

Q. Did you ever read anything about it? A. No, sir; I didn't.

Q. Did anyone ever tell you anything about it? A. No, sir; they didn't. I don't believe in boycotts anyhow. 4874

Q. Now, Mr. Humphries, I want to ask you if following the time when you learned that the Loewe men had come out of the factory, did you ever hear that the officers of the United Hatters of North America were boycotting Mr. Loewe's goods in states outside of Connecticut? A. I didn't. I didn't know nothing about it.

Q. Prior to the commencement of this suit did you have any knowledge of that whatsoever? A. Not a bit of it. Not any knowledge whatever of any trouble with Mr. Loewe or his business.

Q. Did you meet Mr. Loewe during that period of time? 4875
A. I met Mr. Loewe very frequently. Always was glad to see me.

Q. Did he ever say anything to you about it? A. No, sir; he never did say anything about any trouble to me in the world.

Q. Then the first you knew of it was when he sued you in this particular action? A. Well, I knew it from the papers, but then myself seeing the defendants was when I got my attachment papers.

Q. You saw in the paper at Danbury that you had been sued, did you? A. Yes, sir. 4876

Q. Before you were attached? A. No, I didn't; not before we were attached, no.

Q. Did you read this paper that was left with you at the time your property was attached? A. You mean the writ of attachment?

Q. Yes? A. Oh, I read a little, I couldn't but a little, it would take me too long to read it.

Q. Did any one read it for you? A. No, sir; they didn't.

4877 Q. Did you know at that time what it contained, in a general way? A. Oh, I did, I read the part of it where the property was attached, and read the names, that is all I could do; I couldn't go any farther.

Q. Now I want to ask you this question; have you ever at any time knowingly been a party to any conspiracy to interfere with Mr. Loewe's interstate commerce? A. I never was a party in a conspiracy to interfere with Mr. Loewe or anybody else. I never was a party to any conspiracy of any kind and at the time of that I didn't know the national officers; at the time this thing happened, I didn't know one of them either
4878 by sight or by name.

Q. You met Mr. Loewe, did you not, after you were here in the last trial of this case? A. Yes, sir; I did.

Q. Had some talk with him in the court room? A. Yes, sir; right here, and I asked Mr. Loewe—if you will allow me to—

Q. I want you to state what he said to you at that time? A. I said, Mr. Loewe, why did you attach my property. He says, "If I had the doing of it, I wouldn't have attached your property." He said he didn't know who was attached.

4879 Q. Did he say anything else? A. No, sir; not that I remember of; he did say he was very sorry, and he said it will never cost you one cent.

Q. That was when you were here as a witness in this case at the last time? A. That was when I was here as a witness in the case the last time; stood right by the railing there, and Mr. Merritt heard the conversation. (Speaking to Mr. Merritt.) You helped me put my overcoat on.

Mr. Merritt:

You are mistaken there.

The Witness:

4880 Ain't you Mr. Merritt?

Mr. Merritt:

I'm Mr. Merritt, but I didn't hear that conversation.

The Witness:

The thing happened though, and another gentleman asked Mr. Loewe when he told me it would never cost me anything—he said "I wish you would tell me that," he says. Mr. Loewe is here and he can verify my statement if he sees fit. I have always been very intimate with Mr. Loewe.

Q. You say you never worked for Mr. Loewe? A. Never worked for him; no, sir; never did.

Q. Are you working now? A. Oh, no, I ain't worked **4881**
at hatting in two years. I can't do anything. I couldn't see in the first place, and then I am not able to. I have been under the doctor's care for over a year.

Q. Mr. Humphries do you know Mr. John Moffitt? A. John who?

Q. John Moffitt? A. I never see him. I never see him to my knowledge.

Q. Did you ever hear of him? A. I have heard of him, yes; I have heard he was National President; heard of him, but never see the man. Never knew him. I never knew Mr. Maher. I never knew Mr. Lawlor, I never knew Mr. Shal- **4882**
voy; never knew one.

Q. These were officers of the organization? A. Of the organization. I never spoke to one.

Q. In 1902 and 1903? A. That's it.

Mr. Mulholland:

I think you may have the witness.

CROSS EXAMINATION

By Mr. Merritt:

Q. Mr. Humphries, this suit never has cost you a cent **4883**
has it? A. It has not, no, sir; not that I know of.

Q. Your expenses were paid up here to Hartford to testify in this suit; in your own suit? A. It cost me $3.20 to come here this morning.

Q. Has that been paid to you? A. I don't know who it will come from.

Q. Was it paid to you at the time when you came here and testified? A. I believe it was the last time, but it isn't this time.

Q. Well you were reimbursed when you came to the last trial to testify in your own suit? A. Yes, sir. **4884**

Q. Were you subpoenaed to come? A. I was subpoenaed, yes, sir.

Q. Were you subpoenaed this time? A. Yes, sir.

Mr. Mulholland:

He doesn't know what a subpoena is.

Mr. Merritt:

Wasn't he subpoenaed?

Mr. Mulholland:

No.

4885 The Witness:

A gentleman come to my house last night and told me I was wanted here today.

Mr. Merritt:

I will take it on your statement that he actually was not served with subpoena.

Mr. Mulholland:

None of the witnesses on our side have been subpoenaed.

The Witness:

I was served with no papers.

4886 Q. When you were served with those papers what did you do to defend yourself in the suit? A. I didn't do nothing.

Q. Haven't you ever retained counsel in the suit? A. I never have done nothing because I didn't know what to do.

Q. You never employed counsel to defend you? A. Never. Never spoke to counsel about the case, because I was told by the plaintiff that it never would cost me anything.

Q. Prior to the last trial had you ever taken any steps to employ counsel? A. After the trial?

Q. Prior to the last trial? A. No, sir; I never have counselled with anybody in regard to this case.

4887 Q. Well, the statement you make that the plaintiff told you it would never cost you a cent— A. Yes.

Q. Was at the last trial, wasn't it? A. It was at the trial here before; the first trial of the hatters with Mr. Loewe.

Q. That wouldn't explain your conduct in not employing counsel in 1903, would it? A. No, I don't think it would.

Q. Then I ask you why you didn't take any steps to defend your interests in 1903? A. Because I never looked—they had handled this affair and I asked nobody questions in regard to it.

Q. Your property was attached? A. My property
4888 was attached and it is attached now.

Q. Why didn't you take any steps to defend yourself? A. I presumed somebody else was looking after that.

Q. Who did you presume was looking after it? Do you mean to testify, Mr. Humphries, that after your property was under attachment, and the savings bank account was attached also, wasn't it? A. Yes, sir.

Q. That you laid back and took no steps whatsoever to defend yourself in this suit? A. Never went to consult any

man in regard to that, because they are doing that, and just as I expect to this present time. 4889

Q. And you did it without any idea of who was to take action to defend you in the suit? A. Well, I heard that there was lawyers employed to take charge of it.

Q. Where did you hear that? A. I don't know. I heard it in the factory verbally from somebody.

Q. That is you heard it in the factory where you were working at the bench? A. And I saw it in the paper also.

Q. You saw it in the paper? A. I think I did.

Q. Didn't you also see a statement in the paper at the same time that the United Hatters would see that every man was indemnified? A. I didn't. 4890

Q. What particular time was it you saw in the paper that they would take care of the defense in the case? A. It is quite a while ago and I couldn't remember just the time it was.

Q. I mean were these papers in 1902? A. I couldn't remember the date.

Q. Was one in September, 1903? A. I didn't know the date that the suit was instituted until you told me here in this court room two years ago, I think.

Q. State that again? A. I say I didn't know when this suit was instituted until you told me here. 4891

Q. You knew it was instituted when you were served, didn't you? A. I suppose so.

Q. And you didn't know of any legal steps which had been taken to defend your interests? A. I didn't.

Q. You never conferred with any one since then concerning the defense of your interests? A. I told you twice I never conferred with anybody in regard to that.

Q. Is your Savings Bank Account still attached? A. No, the hatters give me a check for it.

Q. Who did you confer with concerning that? A. I didn't confer with nobody. 4892

Q. Did you have any correspondence concerning it? A. No, sir; the Secretary come and told me my bank account was attached and they would release it for me.

Q. Then you did confer with the Secretary? A. If that was conferring I did that way.

Q. He gave you the full amount of your bank account? A. He gave me the full account of my bank account on my bank book.

4893 Q. You signed some paper? A. I never signed a paper. I turned my bank book over to him. I never signed nothing.

Q. Did you sign your name on the bank book? A. No, sir; I never did.

Q. You turned him over the bank book? A. I turned him over the bank book and he gave me a check for the full amount of it.

Mr. Mulholland:

At this point I desire to make a statement on the record that may save a great deal of time; and that is that after the
4894 bank accounts of these various defendants were attached the United Hatters of North America took assignments of those accounts and gave the face of the bank books over to the defendants.

Mr. Merritt:

We have other proof of that fact from your own official Journal already.

Mr. Mulholland:

You have, but I wanted to make that statement to the Jury.

The Court:

4895 There is no dispute about that?

Mr. Mulholland:

No dispute at all.

Q. Didn't you ever receive a circular concerning the employment of counsel? A. Not one circular did I ever receive in any shape.

Q. Mr. Humphries, did you take any steps after this suit was started to see that the organization of which you are a member should not continue boycotting? A. I never did nothing at all about it.

Mr. Mulholland:

4896 Objected to.

Witness:

I never heard the organization speaking of a boycott in my life. I never saw them boycott any product and I never heard them say yet that they are going to boycott anybody.

Q. What I am getting at is this, Mr. Humphries, that after this suit was started you then knew that the organization was charged with boycotting, didn't you? A. Well, I heard they were going to try to have Mr. Loewe unionize his factory, if you call that boycott, why I heard of it.

Q. Didn't you know when the suit was started that part 4897
of the complaint was that they had been boycotting Mr. Loewe's factory? A. No, sir; I didn't know nothing about.

Q. You never knew that complaint was in there? A. No, sir; I didn't, only for damages to his business; that was all it was in my paper; damage to Mr. Loewe, so much in his business.

Q. You never knew that it was stated in the complaint about boycotting Mr. Loewe's business? A. No, sir; I never did.

Q. Did you hear any talk there in Danbury by the other 4898
members? A. I heard different things about boycotting. I have heard about boycott and anti-boycott; heard about both of them.

Q. Didn't you hear in 1903, after the suit was started that you were charged with boycotting? A. I understood that the association was charged with boycotting.

Q. And you were a member of that association? A. I understood it was also charged that the anti-boycott association were in it, and anybody else that had anything to do with it.

Q. Didn't you know that Mr. Loewe was charging your 4899
organization with boycotting? A. Well, I understood afterwards he was.

Q. Didn't you know it in 1903? A. I didn't. Didn't know nothing about it.

Q. When did you learn it? A. I have learned since this trial has been going on. There never was anything said about this trial until two years ago.

Q. That is you never knew that your organization was charged with boycotting until the first trial of this case in 1909? A. No, sir; didn't know nothing about it.

Q. When were you last working at the trade? A. 4900
When was I last?

Q. Yes? A. Well, it was two years ago; it will be two years the 16th of December.

Q. Were you working at the trade in 1902 and '03? A. I was.

Q. Where were you working? A. Working at the Danbury National Hat Company.

Q. How many men were there working in the same room with you? A. How many; I tell you I was foreman

1901 and didn't work in any room; there wasn't any working in the room I worked in.

Q. You heard the men conversing together from time to time about various matters, didn't you? A. Well, if they were talking I never heard their talk, because they didn't want me to.

Q. You never heard any of their conversation? A. No sir; generally a foreman in talk of that kind never bothers to hear it.

Q. The men work side by side at benches, don't they? A. Yes, work right along side by side; if they work together
1902 properly.

Q. And quite a number in a room in a large factory like the National? A. Yes, sometimes fifty; sometimes thirty-five.

Q. They do converse together from time to time, don't they? A. I suppose they do, for all I know.

Q. You don't mean to testify you never heard them talking? A. I told you before I didn't work with them. I worked by myself. I was foreman over the pouncing and the stiffening room, and the stock room. I put the tickets on hats and weighed them out to the boy to carry them down to the
1903 foreman. I never went around the room, because I had no business around there.

Q. You have seen copies of the Journal of the United Hatters lying around the factory, haven't you? A. Seen copies of it?

Q. Yes? A. I saw some, yes, I did.

Q. You have seen them knocking about the factory? A. Yes, I have.

Q. You never looked at any of them? A. No, sir; I never did. Hadn't time to bother with them; I never carried one of them home.

1904 Q. You were willing to leave the officers to run the organization without inquiring into their operations? A. I didn't look after that at all.

Q. You were perfectly willing to approve them?

Mr. Mulholland:

Objected to as not cross examination.

A. I suppose I had to. I didn't understand the rules of the business at all. I didn't interfere with it. Didn't look after it.

Q. Now didn't you testify in the former trial as follows: 4905
"Well, as I said before, they are the officers, and I am willing to be advised by them"? A. Maybe I did.

Q. "Whatever they think is right I am willing to acquiesce in the matter"? A. Maybe I did.

Q. "Because I didn't take any part in electing them; I didn't think I had any right to find fault with them for the last four or five years." Is that the way you testified? A. It may be. I couldn't tell you.

Q. Well, are you willing to endorse that now. I will let you read it.

Mr. Mulholland: 4906

You better read it for him.

Q. I will read it to you? A. Just repeat that.

Q. Are you willing to endorse it now? A. Well, of course I connected that with the statement as to matters of that business, I didn't interfere with the officers at all.

Q. Let me read it to you directly, and see if you are willing to endorse it now? "Well, as I said before, they are the officers, and I am willing to be advised by them; whatever they think is right I am willing to acquiesce in the matter; because I didn't take any part in electing them, I didn't think I had any right to find fault with them, for the last four or five 4907
years"? A. Did I testify to that before?

Q. That is according to the stenographer's minutes? A. Then I might as well say if they kill a man I would acquiesce in it. I wouldn't say that because I think there is a mistake there.

Q. Now, I will read to you from the Danbury News for September 15th, 1903, and I will ask you if this is the notice which you read in the paper concerning the suit, and the action that the organization would take? A. I can tell better when I hear it.

Q. Now I will read it to you: "Hatters are waiting. 4908
Intend to lift attachments on workmen's property as soon as made. There are no new developments today in the case of D. E. Loewe & Co. against the United Hatters of North America, and the American Federation of Labor. The national and local officers of the Hatters' Union were in consultation in New York City yesterday on the matter, and with them was Attorney Howard W. Taylor of this city, who has been engaged as counsel. At the meeting it was decided that as soon as Sheriff Doolan of Bridgeport begins placing the attachments

4909 on the properties named in the list filed with the Town Clerk Saturday, the necessary papers will be prepared to lift these attachments. Attorney Taylor is now waiting for the sheriff to begin serving attachments.

"Attorney Taylor said today that he had little to give out regarding the case, as he and his clients were simply awaiting developments. He stated that he thought the action of Loewe & Company's lawyer in placing these attachments on the private property of members of the union was a mistake on his part, and was liable to act as a boomerang against his side of the case. He also said that in his opinion the prompt 4910 action of the hatters in announcing that they would take up all the attachments, was the wisest thing that they could have done, and in his opinion will go a long way toward winning the case for the unions." Is that the article you read? A. No, it isn't. No it isn't.

Q. Well, I will read you another one.

Q. Well, here is an article in the Danbury News for September 16th, 1903: "Serving the writs. Sheriff Doolan of Bridgeport visits Danbury in Loewe Case. Sheriff Doolan of Bridgeport was in Town yesterday and served a number of the attachments on members of the United Hatters of North 4911 America and the American Federation of Labor in the suit of D. E. Loewe & Co. against those organizations for alleged injury to his business. Attorney H. W. Taylor who represents the union organizations in the matter will prepare papers fof the lifting of the attachments as soon as the sheriff finishes his work of serving the papers." Is that the article; that is so much of it as I have read? A. I read that, I think. I asked the sheriff who served the papers to read it to me, and he laughed at me. I says, "it is lawful for the sheriff to read the writ of attachment," and he wouldn't do it. Well, I says "is it 4912 legal because you didn't read it"? He says "it's too long." I says "if it's long enough to give to me you ought to read it." I says "I can't read it," and then the United States Marshal come up and says I have got one to serve on you. I says "you can read yours also." They didn't either one of them read them.

Q. I didn't understand your answer to that question, whether that was the article you read? A. That was the article I read, I think.

Q. You think this one I just read is the article? A. I think so; but don't you think Mr. Merritt that the—

Q. I am not being examined Mr. Humphries? A. That **4913**
the sheriff is in duty bound to read a writ to a man?
The Court:
Well, we won't take any time to discuss that.
The Witness:
It is a pretty long document.
Q. Now, as I understand it, when you were served in this suit you didn't do anything to investigate the matter; you made no protest to your organization; you made no inquiry of your organization as to what was going on; you made no effort to prevent the re-election of the same officers who were charged with the wrong doing? A. No, sir. **4914**
Q. Is that correct? A. Didn't go to any meeting; didn't attend the meetings at all; didn't make any arrangements with nobody. I didn't.
Mr. Mulholland:
I would like somewhere in this record to save that question. I doubt if it is a competent question to ask in this case, and I expect we will have to return to it a good many times.
Mr. Merritt:
You certainly will, if the court permits it.
Q. Did you receive a copy of this "Plaintiff's Exhibit 86"? A. No, sir; I didn't. I understood—I heard some of **4915**
the men say that they got them by mail. I never got one; never saw one.
Q. You heard some of the men say they got them? A. Yes.
Q. Where did you hear that, in the factory? A. No, it wasn't. I heard they come from your father.
Q. You heard they came from my father? A. Yes, sir.
Q. Who did you hear that from? A. I don't remember now. It's a good many years ago. I don't remember. I am not as young as you are. **4916**
Q. It is in evidence here that boycotting operations were commenced by the United Hatters as early as 1896, and had been going on off and on down to 1907; that they had been published from time to time in the Danbury News; that they had been published from time to time in the Journal; that they had been reported upon at the local meetings; now I want to ask you if in the face of that you are willing to testify that you never did hear of these matters or whether you testify that you had no recollection of hearing of those matters? A. I don't read of those things in the paper. I

4917 read what I think is interesting, but nothing about any boycotts or anything of the kind. I never remember reading about any of them. I never remember reading about a boycott in the paper. I don't know anything about—I don't remember ever hearing about them.

Q. You don't remember? A. I don't. To the best of my knowledge I don't remember.

Q. Is your name in the Danbury Directory, or was it in 1902? A. Sure it is.

Q. Have you always lived, for a number of years at this address you gave? A. Have I what?

4918 Q. How long have you lived at 9 Stevens Street? A. I have lived there since 1873.

Mr. Merritt:

That is all.

Mr. Mulholland:

That is all.

Witness excused.

Witness.

NATHAN C. HOY,

4919 Sworn by Mr. Carroll.

The Clerk:

Your full name? A. Nathan C. Hoy.

EXAMINED

By Mr. Mulholland:

Q. Speak up loud, please, so the jury can hear you. A. As loud as I can.

Q. Where do you live? A. Sanbury.

Q. And what is your age? A. I am sixty-six.

Q. Are you a member of the so-called Hatters' organiza-

4920 tion? A. I am a member of Finishers' organization No. 11, Danbury, Conn.

Q. I will ask you if you are also one of the honorary members? A. I am.

Q. And haven't been attending meetings since you were fifty years of age? A. I don't think I have been inside of a hatters meeting since that time.

Q. You are now sixty-six? A. Sixty-six.

Q. That would be sixteen years, then, that you haven't been inside of a hatters' hall for a meeting? A. Sixteen years.

Q. Have you lived in Danbury during all of that period; 4921
that is sixteen years? A. Lived in Danbury for forty-four years.

Q. Is your family there? A. What there is left of it.

Q. And you are a defendant in this action are you? A. I am.

Q. Your property attached? A. It is.

Q. That is your home? A. My home.

Q. Do you know when the organization to which you belong came affiliated with the organization known as the United Hatters of North America? A. Why, I had ought to know, but I couldn't give the exact date. 4922

Q. Well, it was 1896. Do you know whether you have attended a meeting of the Hatters' organization since that time? A. I have not.

Q. Then you have never participated in any way in the affairs of the United Hatters of North America? A. In no way.

Q. What was the name of the organization that you joined? A. Well, I told you, a union of hatters.

Q. Do you know what their name was? A. I couldn't tell you only they were called the fair hatters of Danbury.

Q. When did you say you joined? A. Why in 1882 4923
at the time of the lockout. I joined an independent organization one day and before the sun went down we became connected with the fair hatters organization, and I have been one ever since.

Q. And that is the only organization, so far as you are concerned, that you ever joined? A. That is all—along those lines.

Q. Were you in Danbury in the year 1902? A. I was.

Q. Do you remember of a strike occurring at the Loewe plant at that time? A. Well, I was living in Danbury, but I wasn't working in that district at that time; I was working in the adjoining town of Bethel. 4924

Q. Well, I mean to fix the time; do you recall some trouble occurring in Loewe's plant in July 1902? A. Why, I did hear of trouble occurring there.

Q. Prior to this strike had you any knowledge that there was to occur a strike in the Loewe plant? A. I had none whatever.

Q. And when did you first learn that a strike had occurred? A. Well, I couldn't tell you that exactly, but I remember in the district where I worked we had a little

4925 trouble locally, and I believe it was necessary to appeal the action up to the Board of Directors, and I understood that they were holding a meeting on the Loewe case in Danbury.

Q. Was that before the strike or after the strike? A. I presume it was after the trouble had commenced anyway; I couldn't say how long.

Q. Prior to the Loewe trouble, that is the time the men went out on strike had you heard anything that there was to be any trouble in the Loewe plant? A. I had not.

Q. Any information that you acquired was after the men came out of the shop? A. It certainly was.

4926 Q. During the last sixteen years have you been a reader of the Journal known as the Journal of the United Hatters of North America? A. I have not.

Q. Did you ever read one? A. I have at times when they have been passed around in the factory where I was employed, and laid on the bench, just looked over the officers' reports. That is all.

Q. Did you ever take one home? A. I don't remember that I ever carried one home.

Mr. Merritt:

What does he made, that he read it prior to sixteen years?

4927 Mr. Mulholland:

It didn't exist sixteen years ago; it only existed seven or eight years.

Mr. Merritt:

He said he hadn't read it in sixteen years.

Witness:

No; hadn't attended a hatters' meeting in sixteen years.

Q. Do you know when you first saw a copy of this Journal? A. No, I couldn't tell when I first saw a copy. I have seen numbers of them. They would come around and place them on the bench. Some would take them out—

4928 feel deeply enough interested in them to take them home and read them; but I never did. There was nothing that was of particular intrest to me; and occasionally, as I say, I would turn over and look at the officers' report.

Q. Do you know of a publication known as the American Federationist, published by the American Federation of Labor? A. Only by hearsay.

Q. Did you ever see a copy of it? A. I have not.

Q. Mr. Hoy, prior to the time when those men came out on strike at Mr. Loewe's plant, have you any knowledge that the officers of the United Hatters of North America

were conducting boycotts in states other than Connecticut? **4929**
A. I don't know.

Q. Did you ever hear them talk about that or read about it; what I mean is, had you any information in connection with it? A. I might say that I never knew any reason for the trouble that commenced in Mr. Loewe's factory until after they were started.

Q. Now I want to ask you, in connection with the Loewe trouble; that is after you heard of it and prior to the time that this suit was commenced, whether you knew that the officers of the United Hatters of North America were boycotting Loewe's goods in states other than Connecticut? **4930**
A. I knew nothing only by hearsay.

Q. What do you mean by that? A. Well, I mean by hearing others talk of it.

Q. When did you hear that? A. I have no positive information regarding the matter. I can't say. It was a number of times; and asked where the trouble was.

Q. How long prior to the time the suit was commenced?
A. Oh, I don't know. If I knew of it before the suit was commenced?

Q. That is what I mean? A. Oh, no; I didn't.

Q. Then those conversations you refer to were after suit had been commenced? A. Certainly. **4931**

Q. Can you give us the date when you were served with the writ in this case? A. I can't. I presume it must have been in 1903. I returned home one night and found it. I started to leave the back door open and found it lying on the floor in the back hall.

Q. Did you read it at that time? A. I don't know but I did.

Q. All through? A. The attachment papers?

Q. Yes? A. I think I did both of them.

Q. Then you knew what the nature of this suit was, did you? A. I did. **4932**

Q. Mr. Hoy have you ever at any time knowingly been a party to a conspiracy to destroy or interfere with Mr. Loewe's interstate commerce? A. I have not.

Q. Did you know that he had any interstate commerce?
A. Why, no I didn't know anything about anything connected with Mr. Loewe's affairs whatever. I presumed likely that he had.

Q. Did you ever work for Mr. Loewe? A. I didn't.

4933 Q. Do you know him personally? A. I have known him personally just to speak, I guess, for about twenty-five years, when we met.

Q. Have you ever been in the Loewe factory? A. I never have.

Mr. Mulholland:

I think you may take the witness.

CROSS EXAMINATION

By Mr. Merritt:

4934 Q. You are still a member of the United Hatters, Mr. Hoy? A. I am still a member of the Finishers' Association No. 11.

Q. Well, then, you are a member of the United Hatters, are you not? A. I presume likely they would consider me such, although I never considered myself really a member of anything that I couldn't have my say in when there was a meeting going on.

Q. What do you mean by that? A. I mean I am entitled to my say in the hatters, but if I was was to attend in the National organization, I don't presume I would be unless I
4935 was a delegate to it.

Q. Did you ever try to have a say? A. No, I never did.

Q. Did you ever ask for information concerning what was going on which was denied to you? A. I don't think I have.

Q. Now you pay dues to the United Hatters, don't you? A. I do.

Q. So that you are a member in the sense that every one else is a member. A. I suppose I am.

Q. Now I am not sure that I understood you when you said that you hadn't attended any meeting for sixteen years,
4936 didn't you? A. I think so, it must be about that time; when I went the honorary laws were at the age of fifty; but since then the laws have been changed, I think from fifty to sixty before they are entitled to it; and I don't remember that I have been in a hatters meeting since I went on the honorary list.

Q. What was the date when you went on the honorary list? A. Well take sixteen out of the present date and it would give it to you. I can't figure it very nicely in my

head. It would take me a little time; but take the age of fifty and I am now sixty-six. 4937

Q. As an honorary member don't you pay a regular percentage to the United Hatters? A. I do.

Q. What is the difference between an honorary member and an ordinary member? A. As far as I understand it, the only thing is that an honorary member is exempt from attendance at meetings and exempt from fines for non-attendance at meetings. In some districts it is different. An honorary member in some districts doesn't have to pay the amount of percentage that they do in some.

Q. It isn't so in your district? A. No, sir. 4938

Q. You stated that from time to time you had read the officers' reports in the Journal? A. Well, yes, from time to time; very seldom; just glanced at them. Nothing particularly interesting in the perusal of the book to me, and I haven't bothered with them .

Q. Did you have property attached? A. Yes.

Q. Savings bank account? A. No, I wish I had.

Q. That is good for full value? A. You have got some of it back.

Q. What did you do to defend yourself in this suit? A. Didn't do anything. Never done anything. 4939

Q. Well, can you explain to the jury why it was when your property was attached, and you were sued here for a large sum of money you took no action to defend yourself? A. I left the whole thing to the others that caused the trouble, whether it was D. E. Loewe Co. or others that were back of him, or whether it was the hatters' organization I had nothing to do with it in any way, shape or manner, unless I was called on specially, which I haven't been.

Q. Let me see what you mean by that answer. You don't mean to say you left it to D. E. Loewe & Co. to defend your suit? A. No to defend his portion of it; no his part of it. 4940

Q. That is what we call bringing suit. I want to know what the defendants did? A. His bringing it and the people if it went the other way.

Q. I want to know what steps the defendants took? A. And he was in position to defend.

Q. I want to know what steps the defendants took to defend themselves? A. I don't know what steps he would take or anything about it. Of course, he wasn't then in the position in the matter now that he might possibly have been.

4941 Q. Listen to my question, and I will try and direct your attention to it and we will save a lot of needless conversation. I want to know what action the defendants took to defend this suit? A. Now, I declare I can't tell you anything about it.

Q. I want to understand why you didn't pursue the course that an ordinary man would pursue to defend himself when he was sued and his property was attached? A. Because I left it entirely to those that caused the trouble. I hadn't caused the trouble.

Q. What action did you take to leave it to those that
4942 caused the trouble? A. I took no action at all, until after the decision was rendered by the last court and the United States Marshal came to take a collection, and I told him my views of the matter; I haven't changed them a particle since.

Q. You never received any communication from the United Hatters or any of its officers concerning the business of this suit? A. I think that I did receive a communication from the national officers, and I think I have got it yet. I declare that I can't tell just what it was now, it's so long since I have seen it. I didn't pay any particular attention to it, but I preserved it.

4943 Q. Well you look for that and mail it to me? A. Why, it was nothing private about it in any way. I guess it was issued for public matter. A paper that was showed all around that they would stand in this case of these other—

Q. (Interrupting.) If you will just answer the question we will get on more rapidly? A. Well, that is just what I am trying to do.

Q. What were you trying to do? A. Answer the question.

Q. Well, I asked you if you would send that circular to me? A. Well, I don't know whether I will or not; it
4944 depends on whether I can find it among my papers or not. Possibly it may have been destroyed. I couldn't say.

Q. You thought you still had it? A. You might call at the house and we will look for it together.

Q. Will you tell me what the contents of it are, as near as you can recollect it? A. I couldn't tell you the contents. It is something or other about these attached bank accounts, where it was being released and that the Hatters' organization as I understand it. The national organization would stand back of the individuals that had been individually attached,

something like; the meaning of it I couldn't say just what it was. 4945

Q. Did you receive any circular concerning the employment of counsel? A. I don't remember that I did.

Q. That is to the best of your recollection you didn't? A. Well, I know, I don't know; I couldn't say whether I did or not.

Q. Now when you learned that this boycotting was going on, as I understand it, by hearsay, you took no steps whatsoever to bring about a change in the operations of your organization? A. None whatever.

Mr. Mulholland: 4946

Just a moment, I object.

The Court:

Well, it may be taken subject to exception.

Mr. Beach:

I think it has been ruled on by the court.

Mr. Mulholland:

We want to raise that question right here.

Mr. Merritt:

As far as this witness goes you have asked him all about it.

Mr. Mulholland: 4947

No, this was subsequent to the suit.

I think the Appellate Court say he is not bound to take any steps, or something of that kind.

Mr. Davenport:

Oh, no.

Mr. Mulholland:

Let's see what they do say.

Mr. Beach:

We have given you warning that we object to it on the ground that the Appellate Court has disposed of that question.

Mr. Davenport: 4948

They haven't disposed of it or attempted to do it; on the contrary they have affirmed it.

The Court:

Proceed, Mr. Beach.

Mr. Beach:

I don't think it ought to be passed upon without Your Honor's reading the opinion.

The Court:

Wel, we can declare a recess until two o'clock.

4949 Recess until two o'clock.

Afternoon Session.
Friday, September 20, 1912.

NATHAN C. HOY

on the stand.

CROSS EXAMINATION

Resumed by Mr. Merritt:

Q. Mr. Hoey, I will ask you whether at the time this suit was tried the last time in 1909 and 1910, your expenses
4950 were paid coming the court and returning? A. They were.

Q. They were? A. Yes, sir.

Q. By whom? A. Why I presume it was by the Hatters.

Q. Do you remember the individual who gave you the money? A. I couldn't tell you now. I went into the Hatters' hall, I couldn't tell you whether it was the Secretary or the President of the organization that handed me the money then at that time.

Q. What do you mean by the Hatters' hall? A. Why in their place of meeting, their office and so on.

4951 Q. You went down to their office to get the money? A. Well, I didn't know whether I should get it or not. I was told to call there. I was to work in the factory when I was notified that I was wanted here, and I had to get a very late train, and I didn't get here until the afternoon session. I was told to call around to the Hatters' hall. The foreman of the factory told me the President of the Trade had seen him and told me to come, so I went to the Hatters' hall and this was produced; and whatever there was left out of it was returned over and above my expenses.

Q. Oh, they paid you a round sum? A. They gave me so much money to pay my expenses and I returned the rest.

4952 Q. Who was President of the Trade at that time? A. I think Simon Blake was the President.

Q. The man who is now President of the United Hatters? A. Yes, sir.

Q. One of the defendants in this suit? A. Yes, sir.

Q. Now you testified, did you not, that you didn't know anything about the operations of the United Hatters prior to the commencement of this suit? A. What, in regard to this trouble?

Q. In regard to boycotting of any kind? A. No.

Q. Never knew that they had been engaged in any boy- 4953
cotting? A. No, never knew there was anything of the kind going on anywhere.

Q. Never heard of it by hearsay or rumor? A. No, I don't think so, not that I remember of.

Q. To the best of your recollection you did not? A. Well, I don't think that I had heard anything of that kind at all until this matter came up, and then I didn't know that. The first I heard there was trouble with the Loewe Company, I didn't know really what was the cause of it for some time.

Q. You understand I am not referring simply to Mr. 4954
Loewe? A. No.

Q. I am referring to the operations of this organization of this kind from an early date? A. No, not that I know of. I never heard of any boycotting that I know of. Locally I don't know but there might have been something of that sort that I have heard spoken of, but never that I was knowing to.

Q. Do you subscribe to the "Danbury News"? A. I do, I have it.

Q. Regularly at your house? A. Regularly at my house, every week delivered to the house.

4955

Q. Were you a subscriber at that time? A. Why, I think so, yes.

Q. Well I want to show you certain articles for the purpose of refreshing your recollection? A. Yes, sir.

The Court:

Are these the same articles you read to the last witness?

Mr. Merritt:

Not all, your Honor.

The Court:

Did you hear him read to the witness last upon the stand certain articles in the "Danbury News"?

Witness:

4956

I did.

The Court:

Did you ever see those articles?

Witness:

Well I tell you, your Honor, I might possibly have seen them and I might possibly have read them.

Q. But you don't remember? A. There is somebody that is connected with me that likes to get the paper first, and

4957 if I get the paper first it is stale news to her, consequently I sit down and smoke while she reads it to me.

Q. Do you recall whether or not she read those articles to you? A. Why, no; I don't recall it, she might have done.

Q. Now I read an article which appeared in the Evening News of July 25, 1902.

"After the Loewe Factory.

"The Hatters' Union will attempt to unionize this plant.

"The United Hatters of North America which has recently unionized several of the largest hat factories in the country, has transferred its operations to Danbury, and an-

4958 nounces its intention of unionizing the factory of C. E. Loewe & Co.

"President Moffitt and Vice President Lawlor and Treasurer Maher went to the factory and ordered all of the employees there to quit work. The men did immediately as instructed, and the factory is now short handed in all departments.

"Mr. Maher said today that it is the intention of the Union to make the factory union in a short time. The number of men removed this morning was about fifty. When the union men stopped work, about nine men remained in the siz-

4959 ing room and those were induced to stop work afterwards. Mr. Maher further said that all of the men in the factory will be out tomorrow."

Do you remember reading that? A. No, I don't remember reading it. Possibly I might have heard it read. There is very little of the local news in the issue of the paper that I get an opportunity to read. It is read usually to me.

Q. I mean did you hear it read? A. Did I hear it?

Q. Yes. A. Possibly I might have done. I don't remember.

Q. Well, is that going to be your testimony about any

4960 of these articles in the paper? A. In the paper, I think so.

Q. You think you won't be able to say whether or not you actually did hear it or read it? A. Why, no; I can't say that. My memory is a little defective in regard to matters of that character. There is many things in the Danbury News that read or hear read, and it is out of my head by the next day again until somebody speaks of it, and then I remember that I heard of it.

Q. But this is a matter of special interest to you, isn't it, because it relates to the trade of which you were a member and the organization of which you were a part? A. Yes.

undoubtedly it should have been. Undoubtedly it should have been. 4961

Q. Don't you remember reading in the paper about the Roeloff suit and the fact that the United Hatters had been sued for something like $250,000 dollars damages? A. I remember the trouble they had, the Roeloff factory there. I don't remember reading it, possibly I did, or heard it read. I remember speaking of the Roeloff Company, and I remember that there was trouble of that kind.

Q. You remember there was a suit in connection with it? A. Why, yes.

Q. In which some officers of the Trade were made de- 4962
fendant? A. Probably.

Q. You couldn't state whether or not you read or heard read this article from the "Danbury News" for April 10, 1902, which gives an account of the Roeloff suit, it is a column and a half? A. No. It is possibly that I did not read it or even hear that part of it read anyway. Usually the part that I read in the "Danbury News" is local affairs there, and then the paper is handed over to, and usually I am just about sleepy enough to retire.

Q. Then you couldn't think whether or not you did read that or heard it read? A. I couldn't tell.

Q. Then how can you testify, Mr. Hoy, that you never 4963
heard that any of these boycotting operations were going on if they appeared in the paper, and you don't know whether or not they were read to you? A. Why, I have heard that they were going on, but it is often times that we hear of troubles in the shop and so on, and I don't hear of it until after the matter has been settled.

Q. Well, referring to matters after they had been settled, taking up the Roeloff case for instance, are you willing to testify that you never knew that a boycott had been conducted against that concern? A. No, I did not.

Q. What is that? A. I don't know. 4964

Q. Didn't you ever hear of it? A. I might possibly have heard it, but I don't remember reading it, and I don't know it to be a fact. I never paid any attention to it.

Q. I am asking whether it ever came to your attention by rumor or hearsay that such was the fact? A. Why, I know that they had trouble with the Roeloff factory, but I can't tell all that led up to it, nor how the matter came out finally. I never paid any particular attention to it. I had about all I could do to look after by own affairs.

1965 Q. And you can't testify whether or not you read it? You can't testify whether you read these articles which spoke of these matters? A. No, I can't testify that I did read them.

Q. Then if I understand your testimony, you are not willing to testify that none of these matters ever did some to your attention, but you are willing to testify that you don't remember of their coming to your attention? A. No, I did not testify that way. I testify I may not have read it, but it has come to my attention, however, not through the papers, but what somebody has said regarding the matter.

1966 Q. Now you have worked in the factory, or did in 1902, and you say that a considerable number of men were working in the same room? A. Why I think in 1902 and '03, if I member rightly, I was working in the Bethel district, in the factory of Hicks, and I think there was twenty seven of us.

Q. And you worked beside each other at the bench? A. Worked just the same I presume as they do in your father's factory when he worked in the factory.

Q. Well the jury don't know how they worked in my father's factory. A. Well, I am telling the jury.

Q. They don't know how they worked. A. Well we

1967 worked side by side only a short distance apart, just elbow room. We had a standing position all day long if we worked that length of time.

Q. Well didn't the men converse together about matters of general interest? A. Why, yes; matters of general interest in the hat shop, but the moving picture shows or something of that sort that is going on seemed to interest that class of people more than any troubles that may appear in the Danbury News.

Q. I will ask you whether you ever received a copy of this warning, Plaintiff's Exhibit 86? A. No, I can't read

1968 this with these glasses, but I presume this is the warning that was sent out. I never received one of those.

Q. Did you ever read it in the Danbury News? A. I read it recently in the Danbury News.

Q. Is that your name in this directory? A. Yes, sir; but I can't see it.

Q. "Nathan C. Hoy, 8 Southwell Avenue"? A. Yes, sir.

Q. That was your adress in the year 1902 and '03? A. Yes, sir.

Plaintiffs Exhibit 112 for Identification, Danbury City Directory. 4968

Q. Didn't you hear anything in 1902 concerning this warning? A. Concerning what?

Q. This warning? A. I might possibly have heard it, I can't tell.

Q. That there was a warning of that character sent out among the people? A. But I did not receive one, and if I had done it would have been placed in with these papers I am speaking of, but I hunted them over and I couldn't find anything of that character. I asked the lady of the house if she remembered anything of the kind 4970
and she did not. I asked her if she remembered reading it in the News and she said she did. She might possibly have read it to me printed in the News of that time.

Q. You cannot testify whether or not that warning came to your notice in 1902? A. It never came to me by mail.

Q. Came to your notice by talk with other people or conversation with the journeymen in your factory? A. I couldn't say. Possibly it might have been, it might have been spoken of, but as far as receiving the individual slip of that paper myself, I never did.

Q. You always have the opportunity to go to the meetings of your organization, have you not? A. Oh, yes. 4971

Q. And to vote for delegates to the convention? A. Yes.

Q. There are a great many ways, aren't there, in which you can take part in the activities of the organization? A. Why I presume if I attend the meeting and there is anything special comes up, I have a chance to get up there and give my ideas on the matter.

Q. You are invited, are you not, to write to the 4972
Journal and express your views on things? A. I don't know that I am, no.

Q. I will ask you whether you ever took any steps to try and ascertain whether any of these charges against the organization were true? A. I have not.

Q. Did you ever take any steps to prevent the reelection of the same officers who were charged with the most active part in these matters? A. I have not, I have not attended a meeting.

4973 Q. Did you ever make any protest against such operation?

Mr. Mulholland:

The witness has said he did not attend a meeting. Do you mean other places?

Q. Anywhere, did he write the officers or enter his protest as a member of the Union against his money being used for this purpose? A. I have not made any protest whatever to anybody, only as we have gone over the matter sometimes individually, with some other jour-

4974 neyman and myself undoubtedly. I have always had my views, however, but I have not given any expression to any of them in any way so it would have any effect.

Q. You kept on paying dues in the same way after you were sued? A. I have.

Q. Now you stated that you knew that the board of directors, I believe it was, of the United Hatters were meeting in Danbury some time in 1902 relative to the Loewe case? A. I know that they were. I don't know the exact date that they were there, but the way I heard it is from the fact that we had a little trouble locally against the foreman in our department, and he had appeal-

4975 ed from the Union on the trial of the matter, and was going up before the board of directors, and I know that while his brother was admitted as his counsel before the committee that tried the case in the first place, and before a meeting—

Q. I don't know that it is necessary to go into all these details. A. I don't know as it is, but I am trying to tell you why it was that I remembered that fact that the board of directors did meet in Danbury long about that time.

4976 Q. You knew that they were dealing with the Loewe matter among other things? A. Why that was the principal thing, as I understood, they were meeting there on. How far this matter had advanced with the Loewe trouble, I knew nothing about at the time.

Q. You knew at that time that the men had been called out of the factory? A. Why I presume I did, I don't remember now whether they were or not. Undoubtedly I did know of it at the time.

Q. Have you seen the convention proceedings of the United Hatters from time to time? A. No.

Q. Weren't they distributed in the factories where 4977
you were working? A. Possibly they may have been, I don't remember whether they were.

Q. Will you say you did not read them? A. No.

Q. Did you ever look at them or look at the Journal? A. I look at the Journal sometimes when it is laid around on the bench. Oftentimes there is not enough to go around among the employees. It laid there, and I just turned it over, and I looked at the officers report, or something of that sort. I haven't moved the book from the bench.

Q. Don't you occasionally look at the convention reports in the same way on the same occasion? A. No. 4978

Q. Ever looked at the convention reports? A. Never did. Only when I had a matter I thought it would come up before the convention, and then I didn't look at any of the convention reports. I was more interested in the actions of the convention just at that time than I was prior to that or since.

Q. Didn't you ever see these (referring to Plaintiffs Exhibits 5 and 3)? A. I might possibly have seen the book, but I don't know anything about them one way or the other.

Q. Also Plaintiffs Exhibit 4? A. I say I possibly 4979
might have seen the outside of the book.

Q. And you are willing to testify you never looked at them? A. Why no, sir, only what I have already said here, that when the Journal—I don't know anything about the other book. The only one I ever remember of looking to in any way, is when it was laid on the bench or something like that, and I merely looked at the officers report, or something of that sort. It took only two or three minutes of my time.

Q. Why did you continue paying dues and remaining a member of the same organization after you knew 4980
this wrong doing with which it was charged? A. Why just the same—

Mr. Mulholland:

Just a moment, I object.

The Court:

The question is in substance, why did you continue paying dues?

4981 Mr. Merritt:

Yes, and remaining there after he knew that his organization was charged with these things.

Mr. Mulholland:

It was after the suit was commenced I think?

Mr. Merritt:

Yes.

The Court:

You ask that, I suppose, as a matter of cross examination?

Mr. Merritt:

4982 Yes, your Honor.

The Court:

I admit it.

Exception taken by the defense.

The Witness:

Do you want the answer to it?

Q. Yes? A. Well, I will state that I continued a member of it paying dues in it in order to get a livelihood.

Q. Well you don't have to belong to the Union to get a living, do you, in Danbury? A. Why I might possibly go around and get one from going from house to

4983 house, I suppose, and ask for it. They are a pretty liberal class there, but as a rule, if we have got any pride about it, we have got to earn our own living, and in order to do it, it I belong to the hatting business, I have to do it there.

Q. You have got to do it in Danbury? A. Yes.

The Court:

I understand he did this as a member of the Labor Union after he was accepted and attended the meetings, is that right?

Mr. Merritt:

4984 Oh, yes, your Honor, and paying dues.

Q. But when you are exempt from attending the meetings you still had opportunity to go if you wanted, did you not? A. I certainly have, yes.

Q. Will you explain why you could not get a living at hatting in Danbury without belonging to the Union?

Mr. Mulholland:

I object to that as not proper cross examination.

The Court:

Why I think that may be permissible, but it don't seem to me as though it was shedding much light on the situation. 4985

Mr. Merritt:

Well, it will help us in the main part of the case, if not on cross examination. Perhaps I can ellucidate when it comes in in other connections, what the conditions were.

The Court:

Well he may answer if you want to take the answer.

Exception taken by the defense. 4986

The Witness:

What was the question again?

(Question is repeated by the Stenographer.)

The Witness:

Well I don't know that I should have said "could not." Very possibly I might. I have worked at other business before 1882. Hatting was not my original trade, but I found there was more money to be made in a hat shop than there was working at my trade, consequently I became a hatter. I have worked at it ever since, and at my age it would be almost impossible to gain a living outside of the hat shop. I don't know whether Mr. Meeker or Mr. Loewe will take me in their employ or not. 4987

Q. You mean all of the other factories are union? A. I think they are.

Q. You can't work in them unless you belong to the union? A. You can't work in them unless you belong to the union.

Mr. Merritt:

That is all.

Mr. Mulholland:

That is all. 4988

THEOPHILUS ABIENESTE

sworn by the clerk.

EXAMINED

By Mr. Mulholland:

Q. What is your full name? A. Theophilus Abieneste.

Q. Where do you live? A. Danbury.

4989 Q. You are a defendant in this case? A. Yes.

Q. What is your age? A. 69, 70 next month.

Q. 70 years old next month. How long have you resided in the city of Danbury? A. Twenty eight years.

Q. Where did you reside before you went to Danbury? A. Newark, N. J.

Q. How long did you live in Newark? A. Well, from the time I was 8 years old until 1884, excepting the time I was in the war.

Q. Are you a member of any hatters union? A. Yes, sir.

4990 Q. What department? A. Finishing.

Q. Can you tell the jury about how long you have been affiliated with the Finishers' Union? A. Well, I was admitted in 1868.

Q. You joined in 1868? A. Yes, sir.

Q. Are you one of the honorary members not required to attend meetings since you were 50 years old? A. I am.

Q. Then for nearly 20 years you have been on the list of honorary members? A. Yes, sir.

4991 Q. During that period of time with what frequentcy have you attended meetings of the hatters organization? A. You mean the whole time?

Q. Well, since 1896? A. Well, I haven't hardly attended any.

Q. Do you remember the time when your organization merged with the other organization the United Hatters of North America? A. I couldn't recollect the time exactly, I know it was a long while ago, but I don't remember the time. It was a merger on account of the label.

Q. That was in 1896; since then you say you have

4992 hardly attended any meetings? A. No, sir.

Q. When did you say you began working at the hatters trade? A. Well, I began working at the hatters trade in 1858.

Q. And have you worked continuously at the trade since that time? A. No, sir.

Q. Well, commencing in 1858, how long did you continue to work at the trade before there was an interruption? A. Well, from 1858 I worked at the trade until 1861. The war broke out and went out for three years and three months and came back in 1865 and from

that time on I worked at the trade until the present time. 4993

Q. So that the only interruption in your experience in a hat factory, was during the war? A. Yes, sir.

Q. Or three years and three months of it. Did you ever work for Mr. Loewe? A. No, sir.

Q. Ever been in his factory? A. Once.

Q. When was that? A. Oh when I first came to Danbury.

Q. Did you know Mr. Loewe prior to the commencement of this suit? A. No, sir. I went in there and looked around and walked out.

Q. I mean prior to the time this suit was commenced 4994
did you know Mr. Loewe? A. No, except by name.

Q. Didn't know him to speak to him? A. No, sir.

Q. What part of the town do you live in in reference to the location of Mr. Loewe's factory? A. Well, a good ways as much as a mile and a half.

Q. Do you now recollect where you were working in 1902? A. Well, there is a little explanation to be made there. In the former trial I gave it that I worked in the Holley—Beltairs Co., but it was a mistake, when I come to look the record over again, I remember the 4995
papers were served on me in Beltaire Bros. up North Main St. I was called down to the office and the papers were served to me there.

Q. What was the first firm you said you worked for where you thought you were served with the papers? A. I thought I was working in the Holley-Beltairs Co.

Q. Prior to the commencement of this suit had you been a regular reader of the Journal of the United Hatters of North America? A. No, sir.

Q. Did you read it at all? A. No, sir.

Q. Had you ever seen copies of it? A. I had seen 4996
them lying on the benches, never paid no attention to them, because I was hired by the week and try to keep busy.

Q. You were working by the week, were you? A. Yes, sir.

Q. Prior to the commencement of this suit, did you read any reports of the convention of the United Hatters of North America? A. I couldn't say I did. I read, I

4997 suppose, some in the Evening News once in a while when I read it, but not very often.

Q. I am referring now to the printed copies of the report of the convention of the United Hatters of North America prior to the commencement of this suit? A. I never bothered with them.

Q. Do you recollect some trouble in Mr. Loewe's plant in the year or summer of 1902? A. Why, by hearing of it, I heard of it.

Q. And prior to that time had you ever heard or read that the officers of the Hatters Organization were
4998 engaging in conducting boycotts outside of the state of Connecticut? A. I never heard of a boycott.

Q. How long was it after the men came out on strike at Loewe's plant before you heard of it? A. Well, I guess it was two or three days.

Q. How did you come to hear of it? A. On the street walking backwards and forwards from the factory.

Q. Did you know prior to the time the men came out on strike that they contemplated coming out, or that there was any movement on hand to take the men away from Mr. Loewe's factory? A. I hadn't heard of it.

4999 Q. From the time that you heard on the street that there was trouble at Loewe's plant up until the time this suit was commenced by your being served with process, had you heard anything about the officers of your organization boycotting Mr. Loewe's goods in states other than Connecticut? A. No, I did not.

Q. Did you know anything about that? A. No, sir.

Q. Had you heard anything about it? A. No, sir.

Q. Prior to the commencement of this suit, were you a party to a conspiracy to destroy or to restrain the
5000 interstate commerce or trade of Mr. Loewe? A. No, sir.

Q. Prior to the commencement of this suit had you ever talked with anybody about doing that? A. No, sir. They are the most peaceful lot of citizens at that time that you ever heard or saw around there in Danbury.

Q. Did I understand you to say that prior to the commencement of this suit you never knew anything about that? A. No, sir.

Q. Or had anything to do with it? A. Nothing to do with it, or knew anything about it, except what came out once in a while in the paper when I would get hold of what you might say was a little sketch. Then when I got that notice served on me and the attachment, I got kind of scared up, and then it came out that the Association would take care of all those things, that we needn't trouble, that they would hire the lawyers, and they would fight it out themselves. 5001

Q. You received that circular from some of the officers, or some one telling you of it? A. Just talked of it on the streets.

Q. During the last twenty years have you held any office in the United Hatters? A. No, sir. 5002

Q. Have you ever been a delegate to any convention of the United Hatters? A. No, sir.

Q. Have you ever been a delegate to the American Federation of Labor? A. No, sir.

Q. Have you ever seen a publication issued by the American Federation of Labor, known as the Federationist? A. No, sir.

Q. You say you have never seen a copy of it? A. Never have seen a copy, never have seen one. 5003

Q. Prior to the commencement of this suit had you ever read anything in the Danbury News about the boycotting of Mr. Loewe? A. I may have read some of it, but I wouldn't be positive what parts I did read. I know I have read some articles, but to recall which I can't tell.

Q. Did I understand you to say a moment ago that you had not received any information in reference to the boycotting prior to the commencing of the suit?

Mr. Merritt:

He testified the other way. 5004

Mr. Mulholland:

Le me see if he did.

The Witness:

I have not received a copy, and I never heard of any boycotting.

Q. Now I mean prior to the commencing of this suit, did you read anything in the Danbury News that gave you any information that Mr. Loewe was being boy-

5005 cotted by the officers of your organization? A. Why, I might have read it, I can't tell now.

Q. What did you read? A. I can't tell now, I can't remember so much of what I read. While I might have read it in the Danbury News, I might have read it in some other papers, I couldn't tell you.

Q. Well, did you know prior to the commencement of this suit that your officers were boycotting Mr. Loewe's goods? A. I did not.

Q. Well, I can't reconcile your two statements? A. I don't care about that.

5006 Q. One minute, one minute you say— A. I tell you I might have read something but I have forgotten it.

Q. So you want to be safe by saying you might have read it? A. My memory is not so very good, I may have read it in one paper and I may have read it in another, whether it is the Danbury News of the New York Herald, I can't tell you.

Q. At the time this strike occurred at Mr. Loewe's were you acquainted with any of the men working there? A. No, none of them.

5007 Q. Did you ever talk with any of them about their trouble there? A. I was not acquainted with them.

CROSS EXAMINATION

By Mr. Merritt:

Q. Do you recall whether or not you received any circular at the time this suit was started, relative to the defense of the suit? A. I don't remember of any circulars, I received.

5008 Q. Do you recall whether you received any circulars relative to the employment of counsel? A. What's that?

Q. Do you recall whether you received any circulars relative to the employment of counsel in this case? A. No, I have heard on the streets that our association will take care of these things.

Q. But you have received no circulars? A. No, I have received no circulars.

Q. Or letters? A. What is that?

Q. Or letters? A. No letters.

Q. And you are sure you never signed any papers of any kind authorizing the employment of counsel to defend your interests? A. I have signed no papers. **5009**

Q. Do you recall whether or not you received any letters or circulars concerning the taking up of the attachments in this case? A. I remember I received an attachment, and that is all I know.

Q. You don't recall receiving any circulars or letters taking up the attachment? A. No, I do not.

Q. And your only source of information— A. That is all.

Q. To the effect that the Hatters would take care of this suit— A. That is all. **5010**

Q. Was what you learned from talking with people on the street? A. That is all.

Q. And you acquired this information at about the time the suit was started, or shortly after, did you say? A. I didn't hear you.

Q. You acquired this information at about the time this suit was started or shortly after? A. Yes, sir, shortly afterwards.

Q. Did you take any steps yourself to ascertain if this was true? A. Why, I heard it from people that I thought was truthful, and I left it at that. **5011**

Q. Do you remember who you heard it from? A. No, I couldn't say, one of my neighbors, Joe Whittlesey, I think, and he is a pretty truthful man, he is a neighborhood, and he owns property and I believed him.

Q. Were there any officers in trade that you heard it from? A. No, sir.

Q. And you took no steps then whatsoever to defend your interests? A. No, sir.

Q. And never have taken any steps. At the last trial were you expenses for coming here to Hartford and testifying in this case paid? A. Shall I answer that? **5012**

Mr. Mulholland:

Yes.

The Witness:

Yes, sir.

Mr. Mulholland:

Tell all you know about it.

5013 Q. Then the suit has never cost you anything? A. Well, it has cost me something, a lot of worry and lost time.

The Court:

He means any money.

The Witness:

Well, no.

Q. And you understood that the officers of the United Hatters were running the defense of the suit? A. Certainly, I answered that question once.

5014 Q. And you were willing to entrust the defense of your suit to them? A. Yes, sir.

Q. Although you knew that they were the men who had the most active part in this wrong doing?

Objected to.

The Witness:

I didn't know as they had done any wrong.

Mr. Mulholland:

I submit that is not quite fair cross examination.

The Court:

No, it is not proper to characterize it whether it is proper doing or not. You were asking him to character-

5015 ize it?

Q. Now although you are an honorary member, you continue paying dues, do you not? A. Yes sir.

Q. And you pay dues to the National Organization? A. Yes, sir.

Q. A percentage on your wages? A. Yes.

Q. And you have continued paying money to this organization after the suit was brought? A. Yes, sir.

Q. Did you take any steps to ascertain—

Mr. Mulholland:

Just a moment

5016 The Court:

Let's get the question first. You needn't answer it.

Q. Did you take any steps to ascertain if the charges made against you and the organization in this suit were true?

Mr. Mulholland:

That is objected to.

The Witness:

I guess I left that to the courts.

Mr. Mulholland:

Just a moment. 5017

The Court:

Well, how is it at all material? Supose he says he did; he was joined as a party defendant, and nothing more natural than that he should. He has already said that he understood somebody else was going to take care of it and handle it. If he says he didn't I suppose he left it to them.

Mr. Merritt:

Here is a witness who declares he never knew that this boycotting was going on. 5018

The Court:

Before the suit was brought.

Mr. Merritt:

Before the suit was brought.

The Court:

Now his conduct after that might shed some light on the case, but this particular question was whether he took an active part and looked into it, or left it to somebody else. I don't see how that helps us.

Mr. Merritt:

It is only a part of a line of examination as to what he did immediately after the suit, whether or not he made any protests, or whether or not he continued willingly a member of this great combination. 5019

The Court:

That is another question. You are asking him now as to whether he did anything by way of looking into it. Just repeat that question again.

(The question is repeated by the stenographer.)

The Court:

I don't see how that throws any light.

The Witness: 5020

I didn't take any steps whatever.

Mr. Merritt:

I will put another question.

Mr. Mulholland:

I don't want you to answer the questions when I have an objection pending, Mr. Witness.

Mr. Merritt:

I will put another question.

5021 Q. Did you make any protests to your organization or any of its officers, against the continuance of such matters?

Mr. Mulholland:

That is objected to.

The Witness:

Shall I answer it?

Mr. Mulholland:

Not yet.

The Court:

That is, make any protests after the suit?

5022 Mr. Merritt:

Yes.

The Court:

That would not shed much light whether he did or did not.

Mr. Merritt:

Why, it would seem to me that there is a man who says he didn't know, on direct examination. On cross examination I ask him when this thing was brought emphatically to his attention by a suit being started, and he then decidedly did know, whether he continued in the

5023 same organization.

The Court:

He says he did.

Mr. Merritt:

And whether he made any protests to try and put a stop to this thing.

The Court:

Well, you may ask him that.

Mr. Mulholland:

Does the court rule that the other question was admissible?

5024 The Court:

He says whether he made any protests, and he may ask him that.

Mr. Mulholland:

I would like to have an exception to that.

The Court:

It is simply bearing on the accuracy of his statement in chief.

Mr. Mulholland:

I asked him no questions whatever on that line.

The Court:

I know that, but his conduct afterwards is admissible on cross examination. 5025

The Witness:

I believe I testified once before that I had made a protest to some of the officers, but not at this trial, and I believe I did, but this was on the street, and what I had heard on the street. I heard nothing officially, and I stated so here today, that I heard on the street, and what I read in some of the papers. Now you are trying to twist me up or jolly me, I don't know.

The Court:

No, he is not trying to do that. 5026

The Witness:

I answered truthfully as far as I know, but if you try to twist me around then I will have to—

Q. No one is trying to influence you at all.

The Court:

The question is whether you made any protests to any of the officers of your organization? A. I believe I spoke to one or two, I forget which they are, that I did not like the way the thing was carried on, I was afraid we would get into trouble, but that is only through hear- 5027
say and nothing else. I had no official knowledge of anything before that and I have testified that way before.

Q. You had the opportunity to obtain official knowledge through the Journals that were distributed in your factory, did you not? A. That all might be so, but it aint everybody who likes to read them Journals.

Q. Did you make any effort to prevent the re-election of the same officers? A. I don't know if I did.

Q. Ever attend an election of the officers? A. I don't know if I attended any election of the officers there in fifteen years— 5028

Objected to.

The Court:

That is along the same line of inquiry, simply as bearing upon what he did before, as a matter of cross examination. It would not be as admissible as examination in chief.

Q. Do you subscribe to the Danbury News? A. No, sir.

Q. Did you subscribe to it in 1902? A. No, sir.

5029 Q. Did you read it? A. Sometimes.

Q. Did you read it regularly? A. No, sir.

Q. Did you ever see one of these warnings, Exhibit 86? A. Well, I couldn't say that I did, I don't believe I had.

Q. You don't recall ever having received one? A. No, sir, I don't.

Q. Do you recall having heard anything about one of these warnings in the year 1902? A. No, sir.

Q. Now it is in evidence here that over 2,000 of these were mailed in Danbury, and that it was published
5030 in the Danbury News for over a week as an advertisement; now I want to ask you if you are willing to testify that you never heard about one of those in 1902, or whether you simply wish to state that you don't recall it? A. I don't recall, that is what I mean, that I received one, a copy like that. I never received one. I might have read it in the Danbury News, and I might not, I don't know. I don't recall it.

Q. I will ask you if that is your name in Plaintiffs Exhibit 112 for identification? A. That is it.

5031 Q. Was that your address at that time? A. Yes, sir.

Q. Theophilus Abieneste, 13 Madison Avenue? A. Yes, sir.

Q. Did you read the complaint in this action when it was served on you? A. Yes, sir.

Mr. Merritt:

That is all.

Court adjourned until 3 P. M., Monday, September 23rd, 1912.

Monday, September 23rd, 1912, 3 o'clock P. M.

5032 Witness,

CHARLES F. McHAN,

Sworn by Mr. Carroll.

The Clerk:

Your full name, please? A. Charles F. McHan.

EXAMINED

By Mr. Mulholland:

Q. Your full name is Charles F. McHan? A. McHan—HAN.

Q. Where do you live, Mr. McHan? A. Danbury. 5033

Q. Danbury, Conn.? A. Danbury, Conn.

Q. And whereabouts in Danbury; that is as to your street and number? A. 94 Liberty Street.

Q. Talk so that the last gentleman over there (indicating the jury) can hear you. How long have you resided in the City of Danbury? A. About—well nearly fifty years.

Q. You are one of the defendants in this case? A. Yes, sir.

Q. I wish you would state whether or not you are a member of the Hatters' Union? A. I am.

Q. I am asking now if he is—or were you a member in 5034
1902? A. Yes, sir.

Q. In what branch of the trade were you employed at that time? A. I am—I belong to the Finishers' Association.

Q. What is your age, Mr. McHan? A. Sixty-nine.

Q. Then you are one of the honorary members, so called? A. Yes, sir.

Q. That is you have not been compelled to attend the meetings since you were fifty? A. No.

Q. You say you are now sixty-nine? A. Sixty-nine.

Q. I will ask you if during the years from the time you were fifty up until the commencement of this action you at- 5035
tended any meetings of the United Hatters? A. Very seldom.

Q. Well now, what do you mean by very seldom? A. Well, once in a while; perhaps the election of officers or something of that kind I might have.

Q. Do you remember of any trouble occurring in the Loewe plant at Danbury in the year 1902; that is whether you heard of it or not? A. Oh, I heard of it, yes.

Q. When did you hear of it in reference to the strike that occurred there? A. Well, about the time, perhaps, it happened. I was working at Mallory's at the time, which is 5036
right near by. I saw the men going away from there and that is all I knew about it.

Q. Well, prior to the strike at Mr. Loewe's plant, did you know that there was going to be any trouble there? A. I did not.

Q. How long have you been working at the Hatters' trade? A. Well, I worked at it as a boy before the war, and I have worked at hatting ever since—

5037 Q. How long were you in the army? A. Since 1865. Very near four years.

Q. Then you have worked continuously at the hatters' trade with the exception of the four years that you with the army, since you were fifteen years old? A. Yes.

Q. Now I want to ask you whether or not prior to this trouble which occurred in Mr. Loewe's plant in 1902, you knew that your officers—that is the officers of the United Hatters of North America, had been engaged in any boycotts outside of the State of Connecticut? A. I did not.

5038 Q. Had you ever heard that they were engaged in such boycotting or read of it? A. No, I don't think I did.

Q. Well, after this trouble at Mr. Loewe's on July 25th, 1902, and up until the commencement of this suit, did you know that the officers or agents of the United Hatters organization were boycotting the products of Mr. Loewe's plant? A. I didn't.

Q. Mr. McHan, prior to the commencement of this suit, were you knowingly a party to any conspiracy to restrain the interstate commerce of Mr. Loewe? A. I was not.

Q. Prior to the commencement of this suit were you knowingly a party to any conspiracy to boycott Mr. Loewe?

5039 A. I was not. No.

CROSS EXAMINATION

By Mr. Merritt:

Q. Mr. McHan, when this case was tried the last time were you here and testified? A. Yes, sir.

Q. Were your expenses for appearing here and testifying paid for you? A. I believe they were; yes.

Q. Paid by whom? A. Well, I don't know.

Q. Where did you get the money? A. Why, it was given to me. I don't really know who did give it to me now.

5040 Q. You don't recall?

Q. You don't recall whether it was delivered to you at the house, or whether you went down to the office of the Union to get it? A. Well, I didn't go to the office, but I guess the Treasurer gave me—paid it to me.

Q. Who was Treasurer then? A. I don't know.

A. I don't know who he was.

By Mr. Merritt:

Q. When you were served with papers in this suit was your property attached? A. Yes, I suppose so.

Q. What steps did you take to employ counsel to defend yourself in this suit? A. Didn't take any. **5041**

Q. Didn't you receive any papers concerning the employment of counsel? A. No, I think not.

Q. Are you sure of that, or is it simply to the best of your recollection? A. Yes, I am sure I never received any papers of that kind.

Q. You never signed any written authorization to employ counsel? A. I didn't.

Q. Do you recall receiving any circulars relating to attachments in the suit from any officers of the Union? A. I don't remember. I don't think so. I don't know as there was any circulars issued. **5042**

Q. Well, you didn't receive any, to the best of your recollection? A. No, I don't think I did.

Q. Didn't receive any circulars from your union relating to this suit in any way as far as you recall? A. No.

Q. Can you explain how it is when your property was attached in this suit that you took no steps to defend yourself?

Mr. Mulholland:

That is objected to.

The Court:

He may answer. **5043**

Q. Well, why didn't you? A. They attached a piece of property in my name that I never owned, and I didn't take any steps to inform them; and that is the way I become a defendant in this case.

Q. You have no other explanation to offer? A. They haven't got any attachment on any property of mine, or anybody's else; that is a legal attachment.

Q. That is your only explanation as to why you didn't do anything to defend yourself? A. Why, I didn't think it was necessary. I don't know as I should if I had. **5044**

Q. I understood you to testify that you never heard or understood that the United Hatters of North America or any of its branches were engaged in boycotting prior to the commencement of this suit? A. I didn't.

Q. It never came to your attention in any way that they were? A. I knew there was agents on the road advertising the label, but I didn't know that they were doing anything unlawful.

5045 Q. But you never read anywhere that they were engaged in boycotting of any kind? A. I didn't.

Q. You subscribed to the Danbury News at that time? A. Why, I suppose so, yes.

Q. Well, don't you know? A. Well, it is quite a long while ago, but I think we did. I think we took the Danbury News to the house.

Q. You don't recall now whether in 1902 you subscribed to the Danbury News? A. Probably did.

Q. But you are not certain? A. We don't have to subscribe to the News; it is delivered by the newsboy from
5046 week to week. We don't subscribe.

Q. Well, what is your recollection as to the year 1902, whether you subscribed to the Danbury News or not? A. Why, I suppose the Danbury News was in the house.

Q. Regularly? A. Why, I suppose so, yes.

Q. And were you a reader of it? A. Sometimes I read it and sometimes I didn't; the way I do today.

Q. And are you prepared to testify that you never read anything in the Danbury News to the effect that the United Hatters of North America were engaged in boycotting? A. Why, I don't know. I don't recollect about it, but I don't
5047 think I did.

Q. That is what I am trying to get at Mr. McHan, whether it is a matter of recollection on your part or whether you are positive that these matters never came to your attention? A. Oh, they might, somebody—I might have read them if there was anything like that in, but I don't recollect of reading anything about a boycott.

Q. Did you ever see the Journal of the United Hatters? A. Oh, yes; I have seen it.

Q. Read it from time to time? A. Well, not very much. Once in a while I picked it up perhaps and looked over
5048 something.

Q. Occasionally you read it? A. Well, if I had the time: yes, I did, some times, and some times I didn't. The Journal is a thing that we didn't think very much of.

Q. How about the Convention Proceedings? A. I never took much interest in them.

Q. Did you ever read them? A. No, I didn't.

Q. Never looked inside of any of these Convention Proceedings for 1900, 1903 or 1907 (showing same to witness)? A. No, I don't know as I ever saw any of them.

Q. You occasionally attended meetings, you said? A. Well, once in a while one; not very often. 5049

Q. And you are a member of the Finisher's Union? A. Yes.

Q. In Danbury? A. Yes.

Q. Now, I want to ask you if you attended a meeting in Danbury, February 7th, 1900, in which the following report was made? "Mr. Daniel Brady of Orange, N. J., addressed the meeting on the strike in Berg & Co. He said, in part, that he was here, in the first place, to thank the Hat Finishers Association of Danbury for their grand assistance during the trouble with Berg & Co. Another reason he was here 5050 was to give the hatters of Danbury some information regarding the strike, and to tell you what was being done with their money. He said that when they entered the strike it was the intention to force Berg & Co. fair, and from the evidence he had received when he left Orange he was convinced that they were right and Berg & Co. will be forced to make their factory fair or go out of business. There are six men on the road working on the Berg & Co. hats. When he worked in Berg's he said they turned out twenty-one hundred dozen hats a week, and his profits were $30,000 a year, which is five per cent on a business of six hundred thousand dollars ($600,000) a year. The record for the past week was sixty- 5051 nine dozen a day or four hundred and eighty-three for the week. I took one hundred and fifteen dozen a day to pay the running expense of the Berg Co. plant. He said that he was satisfied that Berg & Co. was beat. There were sixty-seven practical finishers in the factory and the rest were learners, and the practical men were employed fixing over what the others spoiled; that Berg had given orders to the foreman to press down on the men and get better work."

Mr. Merritt:

"As the floor walkers expressed it, that the hats were coming back like an army of ants." Don't you remember of 5052 attending a meeting and hearing a report of that kind? A. I don't. I didn't attend the meetings, I told you that when you first started.

Q. Didn't you attend a meeting in 1900, when a special assessment was levied for the Berg strike? A. I didn't.

Q. Don't you remember hearing those matters spoken of as an explanation for the increased assessment being made at that time? A. I don't know. I don't think there was any increase in assessments?

5053 Q. You have no recollection of any increased assessment at that time? A. No, I haven't.

Q. To the best of your recollection; you haven't in your mind now any knowledge concerning an increased assessment made for the purpose of carrying on this Berg fight? A. I have not.

Q. How about the Roelof's fight; can you say the same in regard to that? A. I can.

Q. Did you ever hear that the firm of H. H. Roelofs & Co. had sued the officers of the United Hatters of North America? A. I did not.

5054 Q. You never understood that suit was brought by H. H. Roelofs & Co. for damages caused them by your union? A. No, sir.

Q. You never read that in your papers? A. I don't remember of ever seeing it or knowing anything about it.

Q. Never read that in the Journals? A. No.

Q. Never heard any of the men working at the bench with you converse concerning it? A. This is the first time I ever heard that Roelofs sued the union.

Q. Did you ever read in the Danbury News a report by President Moffitt with big head lines containing several col-

5055 umns concerning the history and operations of your organization? A. I may have seen the head lines, but I never read the report.

Q. Did you ever receive a copy of "Plaintiff's Exhibit 86"? A. Yes, I have seen that before.

Q. Did you receive it through the mails in 1902? A. I think so.

Q. Did you see that in the Danbury News? A. Well, I couldn't say whether I did.

Q. You don't recall? A. But not recognized that—yes, I saw it.

5056 Q. You don't recall whether or not you saw it in the Danbury News? A. Probably I did. I don't know.

Mr. Merritt:

This is "Exhibit 86" and is the warning that was sent out by D. E. Loewe & Co.

Q. Did you read in the Danbury News shortly after the Loewe strike that the men had been called out of there for the purpose of unionizing the factory? A. Why, it might have been in the Evening News, but I have no recollection of it.

Q. Now let's see; let me read this from the Danbury Evening News for July 26th, 1902: "The Loewe Matter. Unit-

ed Hatters induce non-union men to leave the plant. No agree- **5057**
ment regarding the unionizing of the factory of D. E. Loewe & Co., has yet been arrived at between the firm and the United Hatters of North America. The Hatters' Union is determined to unionize the plant while the firm announces that it will continue to do business as before. Yesterday the officers of the Hatters' Union removed all the union men from the factory and several of the non-union men. Today the officers went further, and induced all the non-union men to leave. The officers declined to state under what conditions the men were induced to stop work. Today there are no men working in the factory." Do you remember reading that? A. I don't **5058**
know. I might have read it. I don't remember reading it; no.

Q. Well, now; I want to put this question squarely to you, Mr. McHan: it has been offered in evidence there that your organization has been engaged in boycotting from 1898 down to the time of this suit; that these matters have been reported from time to time at your local meetings and in the Danbury Evening News; now I want to know whether, in the face of that record, you are willing to testify that you absolutely never knew of these matters, or whether, to the best of your recollection, you have no memory now of having known of them? A. I never attended the meetings. Very seldom. **5059**

Q. Just answer my question,—whether or not, your testimony is, that you have no memory now that these matters came to your attention, or whether you are testifying that these matters never came to your attention? A. They might have been in the Evening News, something of that kind, that I might have read, but I didn't attend the meetings.

Q. Did you read the papers that were served on you in this suit? A. Some of them.

Q. And you continued a member after they were served on you?

Mr. Mulholland:

That is objected to. **5060**

A. Continued a member, sure.

Q. And continued paying dues? A. Yes.

Q. You made no protest against the continuation of these matters?

Mr. Mulholland:

That is objected to.

The Court:

You asked him whether he knew this thing and knew that thing.

5061 Mr. Mulholland:

Prior to the commencement of the suit.

The Court:

Yes. Now would not that have some bearing as to the correctness of that answer? It is only with that in view that the court admits it.

Mr. Mulholland:

We would like an exception.

Q. Do you remember the question Mr. McHan,—whether or not you made any protest against your organization doing these things which has been done, after you were sued?

5062 A. I did not.

Q. Did you ever oppose the re-election of the same officers?

Mr. Beach:

Objected to for the same reason.

Q. Or take any steps to prevent their re-election?

Mr. Beach:

Same objection.

A. No, I never had anything to do with the election of any of the officers, only the local; you mean local officers?

Q. You elected delegates or had an opportunity to vote

5063 for delegates to the convention, did you not? A. I didn't attend the meetings.

Q. You had an opportunity, didn't you? A. Oh, I had an opportunity to go to the meetings, yes.

Q. And you had the same opportunity whether you were an honorary member or not, did you not? A. Sure.

Q. I want to know whether you took any steps whatsoever to interest yourself in the affairs of your organization and prevent the re-election of the same officers? A. I did not.

Mr. Beach:

Objected to.

5064 Q. Did you ever vote for delegates to the American Federation of Labor? A. No, sir.

Q. Or any nominees for delegates? A. No, sir.

Mr. Merritt:

That is all, I guess.

RE-DIRECT EXAMINATION

By Mr. Mulholland:

Q. One question I forgot to ask you, have you ever seen a copy of the publication known as the American Federationist? A. Never have; no.

Q. Do you know what it is? A. No, I don't. **5065**

Q. I mean, of course, prior to the commencement of this suit? I think that is all. You are excused.

Witness excused.

Witness,

GEORGE M. HERRICK.

Sworn by Mr. Carroll:

The Clerk:

What is your full name? A. George M. Herrick.

EXAMINED **5066**

By Mr. Mulholland:

Q. You will have to speak up loud, Mr. Herrick, this is a bad room to hear in. Where do you live? A. In Danbury.

Q. Talk to the last man over there: Danbury? A. Yes, sir.

Q. And whereabouts in Danbury? A. 97 Elm Street.

Q. How long have you resided in Danbury? A. Well, between thirty and forty years I think.

Q. What is your age? A. Sixty eight.

Q. You have got to talk louder? A. Sixty eight years **5067** old.

Q. Are you a defendant in this action? A. I believe I am.

Q. Property been attached? A. It has.

Q. Are you a member of any Hatters union? A. Yes, the Finishers Society.

Q. That is the Finishers Society of Danbury? A. Yes.

Q. When did you first become associated in the Hat Finishers Association? A. In 1879 or '80.

Q. And when did you first begin to work at the hat business? A. At that time.

Q. And have worked continuously up until the time this **5068** suit was commenced? A. Yes.

Q. How do you say you are? A. Sixty eight.

Q. Then you are one of the honorary members, are you? A. I am, yes, sir.

Q. Not required to attend meetings since you were fifty years old? A. No, sir.

Q. That is eighteen years ago? A. Just about that, yes.

5069 Q. I wish you would state to the jury whether you have, as a matter of fact, attended the meetings of your local union since you became fifty years of age? A. Perhaps I have once or twice. The last meeting I have any recollection of, that I recall, was at the time. Mr. Blake was elected president of the local union.

Q. I am referring to until the time this suit was commenced? A. You mean whether I have attended since?

Q. Whether prior to that time, and the time you were fifty years old, and up to the time suit was commenced? A. Why, not very regularly; now and then.

5070 Q. Mr. Blake was elected President in 1902, was he not —in 1903? A. I think so. I don't know how long ago; perhaps he can tell you. That is the last meeting I have any recollection of.

Q. Do you now recollect any trouble at the Loewe plant in summer of 1902; hearing about it? A. Well, some one spoke to me in the factory one day, that Mr. Loewe's men were out.

Q. Do you know how long that was after the men had gone out? A. Why, I think it was a few days; two or three days.

5071 Q. Prior to the time the men went out on strike, did you know that they contemplated going out? A. I didn't.

Q. Mr. Herrick, I want to ask you if prior to the time you learned that the Loewe men had gone out of the factory you had ever heard that the agents and officers of the United Hatters were conducting boycotts in states other than Connecticut? A. No.

Q. Do you ever read of it? A. No.

Q. Or receive any information of it whatsoever? A. I didn't.

Q. Well, after you heard that the men had gone out
5072 on strike at the Loewe plant, did you hear or know anything of any boycotts conducted by the officers of your organization against the goods of Mr. Loewe? A. No.

Q. Where were you working at the time this case was commenced? A. I can't tell; I worked in most every factory in the town.

Q. Did you ever work for Mr. Loewe? A. Yes.

Q. Did you know Mr. Loewe? A. Yes.

Q. Did you have such an acquaintance that you would speak to him on the street? A. Always spoke to him when I met him.

Q. I will ask you if you ever saw him during the period between the time you learned that this suit was commenced—I mean between the time you heard the strike had occurred and the time when this suit was commenced? A. To hold conversation with him? 5073

Q. Well, to see him or meet him? A. Oh, I met him every few days, on the street; passed him on the street.

Q. Did Mr. Loewe ever say anything to you about any boycotting upon his product? A. Never.

Q. Mr. Herrick, I will ask you if, prior to the commencement of this suit, you were at any time knowingly a party to a conspiracy to boycott the products of the factory of Mr. Loewe? A. That I was a party to it? 5074

Q. Yes? A. No, I never was.

Q. At the time of this trouble in the Loewe plant, were you working in a union or non union shop? A. In a union.

Q. Do I understand that you have been working continuously in a union plant? A. Yes.

Mr. Mulholland:

That is all.

CROSS EXAMINATION

By Mr. Merritt: 5075

Q. I believe you testified that Mr. Loewe never said anything to you about boycotting—did you receive a copy of this notice sent out by Mr. Loewe: this warning, "Exhibit 86"? A. Something of that; or something similar to it, I think.

Q. And you received it at a time in 1902 after the strike? A. I received it at the time a good many others did theirs. I can't remember the date.

Q. Did you know at the time you received that that others had received them? A. I heard others speak about receiving the same thing. 5076

Q. Did you see the same notice or warning in the paper? A. I don't remember of it.

Q. You don't recall? Were you taking the Danbury News at that time? A. Well, irregularly.

Q. You were not a regular subscriber? A. No; buy it of boys. I take the Weekly, generally. I don't always get the Daily.

Q. Well, you usually purchased it, didn't you? A. Well, I purchased it more days than I missed.

5077 Q. You purchased it more often that you missed, is that what I understand? A. Yes; perhaps three or four days in the week.

Q. In addition to taking the weekly issue? A. Well, I didn't always get the Weekly.

Q. You weren't a regular subscriber to the weekly, then? A. No.

Q. You bought the weekly on the street? A. Bought off boys—haphazard.

Q. Was that your practice in 1902? A. Yes.

Q. And how long have you been reading the Danbury
5078 News in this way? A. Oh, I don't know; quite a number of years.

Q. And do you mean that you have never read anything in the Danbury News relative to boycotting by the United Hatters or any of its officers? A. I never knew there was any boycotting done.

Q. Well, did it ever come to your attention by hearsay or rumor? A. No.

Q. You are willing to swear that such matter of information never came to your attention? A. No, not of a boycott.

5079 Q. And are you willing to swear to the same way back as far as 1898? A. No, I don't think I have taken the paper as long as that.

Q. Well, are you willing to swear that from 1898 down to the time of this suit, you never, at any time, heard any one say, or read anything in any paper to the effect that any boycotting was being carried on by the United Hatters? A. No.

Q. You are willing to swear that way? A. I will swear that I didn't know there was any boycotting going on until we were sued; that is the first information I had that there was any boycott; I received a paper claiming that I
5080 was held responsible for something or other that some one had done.

Q. Now let me see if I understand your answer; your answer is that you are willing to swear that you never heard this information either by reading documents of any kind or by conversation with any one; is that true? A. Of boycott? As a boycott?

Q. Yes, that you never heard of such things being carried on by the United Hatters? A. No; all I know, the United Hatters were booming the union label. I didn't know

anything about any boycott; didn't know as they did up to **5081**
that.

The Court:

What do you understand by boycott; what do you mean when you use the word "boycott"?

Witness:

Is that addressed to me?

Mr. Merritt:

Yes.

Witness:

What was it?

The Court:

What do you mean by the word "boycott"? A. Why **5082**
to influence the dealers to not buy a certain man's goods.

The Court:

What? A. To influence parties to not buy a certain man's goods.

By Mr. Merritt:

Q. Now I show you a report in the Danbury News "Annual Address of President Moffitt. Head of United Hatters reviews work and makes recommendations." In the Danbury Evening News for Monday, May 18th, and covering—

Mr. Merritt: **5083**

1903; and covering some four columns in the paper; are you prepared to testify now that you never read that? A. I never read it.

Q. You never read it? A. If I had read that amount of columns I certainly would have remembered that.

Q. Didn't you know that the United Hatters, or some of its officers, had been sued by Henry H. Roelofs & Co.? A. No.

Q. You never heard of that? Answer, because the stenographer can't get it unless you speak? A. What was the question? **5084**

Q. Did you ever hear by rumor, or hearsay, or in any way, that the United Hatters had been sued by Henry H. Roelofs & Co.? A. Might have heard it at the time of it; but I have no recollection of it now. Don't think I ever heard it.

Q. Didn't you at the time you received the warning, and heard that others had received the warning, hear any explanation of it? A. No.

5085 Q. From the people you talked with? A. I couldn't fairly make out what it meant anyway. It was written in a kind of blind way. I glanced it over and threw it one side; haven't tried to since.

Q. You stated that you talked with other people in regard to it? A. I heard other people say they had received something similar to it.

Q. You never heard any one say it grew out of an attempt to interfere with Mr. Loewe's business?

Q. What do you say? A. I say I made up my mind it was sort of a bluff of some kind. I paid no more atten-
5086 tion to it. Didn't dream of such a thing as we was going to be prosecuted for something we wasn't guilty of; had nothing to do with. I paid no more attention to it.

Q. You made up your mind that the sending out of this notice, or warning, was purely a bluff, did you? A. I made up my mind it was a game of some kind against the union.

Q. Hadn't you up to that time been reading in the Danbury News that the men had been ordered out of the Loewe Factory for the purpose of unionizing it? A. No.

Q. You never read that; you never read in the Danbury News any articles or news items to the effect that Mr.
5087 Loewe's men had been called out of the factory? A. If it was in there I must have missed it. I heard that the Loewe men were out and asked some one what it was. Some said a strike for wages, and some said conditions in the shop; some said one thing, and some said another.

Q. And you are willing to testify as to this matter ten years ago that you never read said article in the Danbury News? A. Yes.

Q. Did you ever read the Journal of the United Hatters? A. No.

Q. Never opened a copy of it? A. Too dry reading
5088 for me.

Q. Do you know if you never opened it? A. Oh, I opened it a few times to see the number of apprentices who had been made, and who their names were.

Q. Number of what? A. Apprentices in different factories and their names.

Q. What part of the Journal did you find that in? A. What part of the Journal?

Q. Yes. A. I don't know.

Q. And in looking for that you never read anything else in the Journal? A. No; ran up the columns to see if there were any names there that I was acquainted with. 5089

Q. You testified that you thought the matter was dry matter? A. Well, I presumed it was. Perhaps I wasn't interested in as much as I ought to have been.

Q. Now in regard to these Journals, did you see them knocking around the factory where you were? A. Yes, a few of them.

Q. And placed on the benches where you were at work? A. Yes.

Q. For a period of years continuing after the strike? A. Well, I have seen them a few times scattered around the shop; some times there would be three or four and some times none. 5090

Q. Wasn't that the practice for a period of several years to put the monthly issue in the room where you were working? A. I think it was, yes.

Q. And you were working in different factories some of the time? A. Yes.

Q. And the same practice existed as to each factory? A. I don't know as to that. I have seen it in several factories where I was working. Whether it was in all the factories or not I can't tell. I remember seeing them in Lee's and where I am working now. 5091

Q. In various factories? A. No, two or three factories, not more than that.

Q. You mean you have worked in factories for any period of time where you haven't seen them? A. I can't tell as to that.

Q. Then how can you say you haven't seen them in more than two or three factories? A. I can't swear that I have.

Q. You can't swear that you haven't? A. I think I have seen them in as many as two or three different factories. One I know of, Lee & Son; I saw them scattered around. 5092

Q. When was that? A. Seven years ago.

Q. The Journal isn't issued any more now, is it? A. I don't know.

Q. What did you mean when you say you were not required to attend meetings? A. Age, I suppose.

3093 Q. Are the other men required to attend meetings? A. I suppose so; it wouldn't be much of a society if they didn't go.

Q. As I understand it, if you are under the age limit, you not only attend meetings, but you are required to attend, is that right? A. Yes, somebody has to attend the meetings, or else there wouldn't be any meetings if no one didn't go.

Q. You are a member of the Finishers' Union? A. I am; yes, sir.

3094 Q. I want to call your attention to an article taken from the minutes of that organization—did you hear the article that I read to the witness who preceded you? A. Yes.

Q. That was a meeting, according to the record, held in the city hall; did you attend that meeting and hear that report? A. When was that?

Q. In 1900? A. I don't know as I have been to a meeting as late as that or not.

Q. You don't know? A. It is ten or twelve years since I attended one, if I remember rightly.

3095 Q. Well, that would be longer than ten or twelve years—no, that would be just twelve years. A. The last meeting I remember attending was when Mr. Blake was elected president. Perhaps he can tell you when that was and you can get at it in that way.

Q. Don't you remember that the assessments were increased at the time of the Berg trouble? A. I can't tell whether they or not, for that purpose.

Q. You don't remember? A. I know we were paying our dues and assessments, and that is the end of it. That is as far as I ever remember.

3096 Q. Do you remember whether special assessment were levied by the United Hatters in order to put agents on the road to fight the sale of Berg hats? A. No.

Q. You don't remember that; you don't actually remember whether assessments were increased or not? A. For that purpose, I don't know.

Q. Do you remember whether they were increased in 1900? A. No, they were increased now and then for various purposes, in deaths, and all such things; they vary from one time to another.

Q. You don't recall of their having been increased in order to carry on the fight against Henry H. Roelofs & Co.?

A. I don't think I did. I have forgotten it. How long ago was that? 5097

Q. 1901 and '02. What steps did you take to defend yourself in this suit when you received your papers? A. None.

Q. Did you receive any paper concerning the employment of counsel? A. I don't know whether I did or not. I was called in a lawyer's office one time and signed some papers and I left it with him 'till it was all ended. I don't think it was for that notice.

Q. You don't think it had any relation to this suit? A. I think it was to inform me that I was a defendant or something of that kind, and had to appear in court; I can't tell what it was. 5098

Q. Was that at the time this suit was started? A. About that time, I think.

Q. Was it one of the officers that so informed you? A. One of the lawyers told me I would be a defendant in a suit, and I signed that paper and went out.

Q. Did you ever receive any paper through the mails relating to this suit? A. I don't think I did.

Q. Did you ever receive any paper through the mails relating to the employment of counsel in this suit? A. No. 5099

Q. You are sure of that, are you? A. Yes, sir; I am sure of that.

Q. But you are not sure whether you received it relating to the attachment in the suit? A. I am, since the sheriff served that paper on me; that is all the papers I ever received.

Q. Since the sheriff served the papers on you in this suit you never received a circular through the mails relating to the attachment and employment of counsel? A. No.

Q. Were your expenses paid to attend the last trial and be a witness in your own behalf? A. They were.

Q. Who paid you? A. Mr. Shalvoy. 5100

Q. One of the defendants in this suit? A. Yes, sir.

Q. You stated that you are a member now of the United Hatters? A. I am.

Q. Been paying dues continuously? A. I am, yes, sir.

Mr. Beach:

The same objection is made and ruling and exception as to that line of testimony in regard to the other witnesses, if Your Honor please.

5101 Q. Did you make any protest? A. Against this suit?

Q. Against the organization doing what was charged in this suit? A. I don't quite understand you.

Q. Did you make any protest to your organization, or any of its officers, relative to the matters involved in this suit? A. No.

Q. Did you make any attempt to prevent the re-election of the same officers? A. No, I didn't attend the meetings.

Q. What? A. No, I haven't attended any meetings.

Mr. Merritt:

5102 That is all.

RE-DIRECT EXAMINATION

By Mr. Mulholland:

Q. You were asked in reference to signing a paper to secure counsel: do you know what, if anything, your officers did towards securing counsel? A. I don't.

Q. You were asked in reference to a paper you signed at Mr. Taylor's office. I understand you now don't remember what that was? A. No, I don't.

5103 Mr. Mulholland:

That is all.

Witness excused.

Witness.

JOHN B. NOWLAN,

Sworn by Mr. Carroll:

The Clerk:

What is your name? A. John B. Nowlan.

EXAMINED

5104 By Mr. Mulholland:

Q. What is your age, Mr. Nowlan? A. Pretty close to seventy-one.

Q. And where do you live? A. 28 Park Avenue, Danbury, Conn.

Q. How long have you lived in the city of Danbury? A. Since 1859.

Q. Been there continuously? A. Continuously.

Q. State whether or not you are a member of any hatters organization? A. Well, I am a member; at the present time a member of the Bethel Hat Finishers' Association.

Q. Oh, in Bethel? A. In Bethel. 5105

Q. How long have you belonged to that organization? A. Since 1859.

Q. That is the Bethel Finishers since 1859? A. Well, I have worked in other places. I worked in Danbury, and I have worked in Orange.

Q. You were a member of that local during all that time? A. Oh, I am a member of some hat finishers local wherever I work.

Q. I see. Man of family? A. Yes, I have a wife and three children now.

Q. During the time that you have belonged to that 5106
labor organization have you been a delegate to any state or national convention? A. No convention; no society.

Q. Have you ever held office in your local organization? A. Never, only as steward of a shop.

Q. Now, for about twenty-one years you have been on the so-called honorary list? A. Yes, sir.

Q. That means that you have not been required to attend meetings? A. Haven't been required; I could go voluntarily, but I was not required. There is no fine attached.

Q. Now, let us understand that, as to the situation prior to the commencement of this suit, in reference to a 5107
member below fifty years of age who did not attend a meeting,—is there any fine? A. There was a fine of half a dollar if he didn't attend.

Q. Then when you pass the age of fifty? A. That was remitted.

Q. Where were you working in 1902, if you recall? A. I was working in Bethel.

Q. And 1903? A. In Bethel continuously since that; I worked in Bethel, in fact, off and on for twenty or twenty-five years.

Q. Do you remember of hearing of some trouble in the Loewe plant along in July, 1902? A. I don't know the 5108
date, but I knew there was trouble there.

Q. Did you hear of it before the strike or afterwards? A. Afterwards; afterwards.

Q. What I mean is, did you have any knowledge that there was to be any trouble in Mr. Loewe's plant prior to the time the men came out? A. None whatever.

Q. Taking that as the date, I want to ask you, in relation to whether, during your membership in the organization, and prior to the strike in the Loewe plant, you have

5109 ever heard that your officers or agents—that is the officers or the agents of the hatters' organization, were conducting boycotts in states other than Connecticut? A. Well, it is according to what you call boycott. A boycott is where you use threats that if you don't buy certain goods they will make it hot for you; that is the American expression. I never knew any such thing.

Q. Haven't you heard of it? A. Never did hear of any boycott whatever at any time or any place.

Q. Now, taking the dates between the time that Mr. Loewe's men went out on strike, and the time that your
5110 property was attached, had you ever heard of any boycotting against the product of Mr. Loewe? A. Never did; emphatically no.

Q. Do you know Mr. Loewe? A. I know that gentleman there (pointing) is Mr. Loewe. That is all; I know him by sight.

Q. I see. You live in his part of the town? A. Well, about a mile from him; further west.

Q. What were you working in at Bethel as to whether it was a union shop, fair shop, or unfair shop? A. The shop I worked in?

5111 Q. Yes? A. It was a union. I never worked in any other.

Q. Now, I will ask you if, prior to the commencement of this suit, you were knowingly a party to any conspiracy to destroy Mr. Loewe's interstate commerce? A. I never was. I want to be emphatic in that. I knew nothing about any conspiracy against any man's business at any period.

Q. Well, prior to the commencement of this suit, were you a party to a conspiracy to boycott Mr. Loewe? A. No, sir.

Q. Prior to the commencement of this suit, had you read
5112 of, or heard, or did you have any knowledge whatsoever, that Mr. Loewe's product was being boycotted? A. No knowledge. I read things that may be fiction, and I think perhaps they were. No knowledge of any boycott or conspiracy.

Q. I want to refer you to a warning, so called, marked "Plaintiff's Exhibit No. 86" and ask you if you ever received such a paper through the mail? A. If I did, I have no recollection of it.

Q. Do you have any recollection of having seen that document before, or read it? A. I might have received it,

but I have no recollection of it. Of course, it has not impressed itself upon my mind, and I would lose recollection. I wouldn't say that I didn't see it; but I have no knowledge of it. 5113

Q. Did you ever work for Mr. Loewe? A. Never did.

Q. Ever been in his plant? A. Yes, once; I believe I went to see Mr. Mutschel, Mr. Loewe's partner. I believe I was there once.

Mr. Mulholland:

You can take the witness.

5114

CROSS EXAMINATION

By Mr. Merritt:

Q. Did you occasionally attend meetings, Mr. Nowlan? A. I have no recollection of attending but one meeting, and that is when Mr. Blake was up for office.

Mr. Mulholland:

That is since the suit was commenced.

Q. You don't recall attending any meeting between 1898 and 1903? A. No, sir.

Q. And you mean by that that you swear that you didn't attend any? A. I didn't attend, as near as I can remember. I don't know what would call me to these meetings. 5115

Q. Did you ever hear the business that had been transacted at local meetings discussed by journeymen working with you at the factory? A. I have no recollection of it.

Q. You have no recollection of hearing any of the men discuss them? A. No.

Q. You have been working at the bench constantly? A. If I heard them I have no recollection. Yes, I was working at the bench.

Q. Didn't you ever hear that there was trouble with the concern of F. Berg & Co.? A. I heard of it, like everybody else did, through the papers. 5116

Q. And the same in regard to Henry H. Roelofs & Co.? A. Yes.

Q. Didn't you know, in that connection, that agents had been sent on the road to see the customers of those concerns? A. No.

Q. You didn't know that? A. I didn't know where they were going. There were agents out on the road. I had

5117 no knowledge where they were going. I had no special knowledge that they went to see Roelofs' customers or Berg's.

Q. I don't understand in relation to that that you could know absolutely of your own knowledge, but didn't you read of these matters? A. If I have, I have forgotten it. You see it didn't impress my mind as a boycott, and, of course, I don't recollect it as such.

Q. Don't you recollect that there was a special assessment made on members of the different locals to support it? A. It might be possible, but I have forgotten that.

5118 Q. I want to read what was reported by Mr. Bailey; he was secretary of your local, wasn't he? A. Yes.

Q. And whether this was in his minutes; or these were the minutes— A. At the meeting?

Q. Yes? A. Well, I didn't attend any meeting.

Q. No, I understand, but I want to know if this does not refresh your recollection concerning the special assessment and the object of it at that time. This is from the official minutes from January 10th, 1900. "Communication from Orange read." A. This communication must be presented to a meeting, and I hadn't attended any meeting.

Q. Just a moment; I understand, but I want to see if 5119 this does not refresh your recollection as to whether or not there was a special assessment levied at that time in connection with the Berg matter, and it was explained to you at that time as a— A. By whom?

Q. By either the journeymen or the shop steward to whom you paid it? A. That would be mere hearsay.

Q. That is what I am trying to get at, what hearsay you had in regard to this? A. As I understand it, you don't want hearsay, you want positive facts.

Q. You just leave that to us. What I want you to do is to answer the question? A. If you will please read it I 5120 will do the best I can with it.

Q. All right, sir. It is stated here that "Things looked encouraging as regards to strike in Berg shop; that he wasn't shipping half of the orders that he was receiving, according to our books; and that the committee in charge are about to send four men on the road to chase down his goods; and asking the continuance of the two per cent, until the fight was finished. Accepted and ordered on file." A. I don't remember.

Q. Don't you remember that two per cent. assessment? **5121**
A. I don't. I won't say there wasn't an assessment, but I don't recollect it.

Q. Your recollection isn't— A. Might be mistaken in a time like that it is possible.

Q. Well, it is twelve years ago. A. It is a good while ago; it is ancient history.

Q. Well, in another part of his minutes "The National Association then thought it a good turn to try and make Berg & Co. fair, so appointed a committee to manage the affair; Orange Society paying her two per cent. to the committee the same as the outside districts." A. Perhaps I did; **5122**
I don't say I didn't.

Q. You simply have no recollection in regard to it? A. I have no recollection of the extra assessment.

Q. Now then, as I understand it, you are not willing to testify in these matters I have recalled to your attention? A. Not as a boycott; anything looking towards a boycott never came to my attention.

Q. Looking toward a boycott? A. Yes.

Q. Will you testify as to whether or not you might have known of these matters at the time? A. I might; surely I might, but I don't remember it. I have no recollection of it.

Q. That is what I am trying to find out; listen to my **5123**
question. A. Yes.

Q. I understand from your testimony that you disclaim any knowledge or information concerning these matters, that is simply based on your best recollection over a period of fourteen years; but you are not prepared to testify that these matters might never have come to your attention during any of those fourteen years? A. Oh, I know that my recollection slips some times like all other people's. I have no memory of it. No recollection whatever of it.

Q. Yes; now, you didn't testify at the last trial, did you? A. No, sir. **5124**

Q. After this suit was started, did you continue a member? A. Yes, sir.

Q. Did you continue paying dues? A. Yes, sir.

Mr. Davenport:

To the National?

Mr. Merritt:

Well, as I understand it, when I asked the question: I think it is perfectly clear to all the witnesses that it means the National and Local dues, and I don't think there is any

5125 question that it means paying one without the other; the two are bound up together hand in hand.

Mr. Mulholland:

That may be admitted, so that the jury will understand it.

Mr. Merritt:

To save our specifying in each instance.

Q. Did you make any protest on account of any matters concerning this suit? A. None whatever.

Q. You took no steps to prevent the re-election of the same officers? A. No, I never did; in fact I had no voice in electing officers at that time.

5126 Q. Now, let's see about that. You had an opportunity to vote for delegates, hadn't you? A. Yes.

Q. And those delegates elect the officers, do they not; now did you take any steps to elect delegates that would bring about a reform or any change in your operations? A. I didn't see any need of reform.

Mr. Merritt:

That's all.

Witness excused.

Witness,

5127 HENRY J. CONWAY,

Sworn by Mr. Carroll:

The Clerk:

Your full name, please? A. Henry J. Conway.

EXAMINED

By Mr. Mulholland:

Q. Where do you live, Mr. Conway? A. At the present time in Lafayette, Ind.

Q. And are you a member of any organization of labor?

5128 A. Yes, sir.

Q. Of what organization? A. The Retail Clerks' International Protective Association.

Q. In the year 1902 and 1903, what, if any, official position did you hold with the Retail Clerks' International Association? A. First Vice-President and General Organizer.

Q. State whether or not as First Vice-President you were likewise member of the General Executive Board? A. Yes, sir.

Q. And as first Vice-President you were, I believe, Chairman of the Executive Board? A. Chairman of the General Executive Board. **5129 7**

Q. During the years 1902 and 1903, did the Retail Clerks' Organization have a publication known as a Journal? A. Yes, sir.

Q. Will you give me the name of that publication? A. The Retail Clerk's International Advocate.

Q. I want to ask you whether or not at any time prior to the first day of October, 1903, the name of D. E. Loewe & Co. was published on the unfair list or "We don't patronize list" or "boycott list" in that publication? A. It was not. **5130 8**

Mr. Davenport:

Have you got the papers?

Mr. Mulholland:

The magazines? No, we haven't.

Mr. Merritt:

I think we want those copies.

Q. What, if any, position do you now occupy in reference to that Journal? A. Editor of it now.

Q. You say that during the years 1902 and '03 you were Chairman of the Executive Board? A. Yes, sir. **5131**

Q. When the Convention of the Clerks is not in session, what is the authority of the General Executive Board? A. To make laws subject to the approval of the coming Convention.

Q. And what, if any, general control does the General Executive Board have over the affairs of the organization—the administrative affairs? A. They have complete control during the intervention of the Conventions.

Q. Of course, I am referring to 1902 and '3? A. Yes, sir.

Q. During the year 1902 and up until October 1st, 1903, had the United Hatters of North America, or any of its officers, made any application to your organization for the endorsement of a boycott upon the goods of D. E. Loewe & Co. of Danbury, Conn.? A. They had not. **5132**

Q. Will you tell the jury approximately the membership of the Clerks' International Union? A. At what time?

Q. During the years 1902 and '3 approximately? A. Possibly sixty thousand; maybe a little more than that at that time.

5133

CROSS EXAMINATION

By Mr. Davenport:

Q. How long have you been connected with the organization? A. Since—as a member or officer?

Q. As a member? A. Since 1890.

Q. When was the organization formed? A. The first organization was formed about 1889 under the old Knights of Labor.

5134 Q. Yes, but when did it become affiliated with the American Federation of Labor? A. I think in the year 1890.

Q. And do you remember its membership at that time? A. I couldn't tell you at that time. It was a small organization then.

Q. And by 1896 how large had it become? A. In 1896 we had probably then about—in July 1896 I was elected National President at the Convention in Denver and I think we had about ten thousand members—if that many—I couldn't make a positive statement.

5135 Q. And by the year 1902, or '3 it had grown to be a membership of sixty thousand. A. A magnificent growth.

Q. Well, a membership of sixty thousand? A. Yes, sir; about that.

Q. And, as the name would indicate, it is composed of the clerks of retail merchants of the country? A. Clothing, furnishing goods, hats and caps predominate as members.

Q. Do I understand that it is confined to clothing? A. Not confined; but they predominate.

Q. Oh, predominate? A. Yes.

Q. And was this membership scattered throughout the United States? A. Yes, sir.

5136 Q. And were in all the different states in the union? A. Not in all at that time.

Q. Well, in 1902? A. In 1902, yes, sir.

Q. And during that time, I suppose they had locals—A. In every state in the union.

Q. At that time how many locals were there? A. At that time I think there must have been over six hundred locals, possibly less; now I couldn't give just an exact statement.

Q. And each local had a secretary? A. Of the local, yes, sir.

Q. And were these locals attached also to the Central Labor Unions? A. As a rule. 5137

Q. And to the State Federations of Labor? A. Not at that time.

Q. Well, how soon after that? A. It has only been within the last six or seven years that they affiliated with state federation promiscuously.

Q. Now the secretary of this association was one of the Vice-Presidents of the American Federation of Labor, as long as he lived, wasn't he? A. Not as long as he lived.

Q. Max Morris? A. Yes, he was when he died a member of the Executive Council. 5138

Q. I mean up to the time of his death? A. Yes, sir.

Q. Now, what period did he occupy that position? A. I think he was elected at the Kansas City Convention of the American Federation of Labor at the same time Mr. John Mitchell was elected.

Q. Were you a delegate? A. I wasn't to that convention.

Q. I was going to ask you whether you had ever been a delegate? A. To the American Federation of Labor. Yes, sir.

Q. Representing your organization? A. Yes, sir. 5139

Q. In what years? A. For the last seven years.

Q. Well, prior to that time? A. I wasn't a delegate; simply a visitor at times.

Q. And did you attend the conventions frequently? A. Yes, sir—of the American Federation of Labor.

Q. Yes? A. Yes, sir.

Q. And if you were asked to go, didn't you have to go? A. If I was anywhere in the neighborhood I was called in for conference on our own business.

Q. In reference to what business? A. Our own particular organization. 5140

Q. There has been introduced in evidence here, Mr. Conway, this resolution, "Resolution No. 192, Whereas it has been represented that the union label is not patronized by organized labor as well as it should be, and

"Whereas the merchants who handle union made goods and employ union workers complain that union men as a rule do not ask for union made products, therefore, be it

"Resolved by the American Federation of Labor in Convention Assembled, that all Internation Organizations and

5141 Federal Unions attached to the American Federation of Labor have their obligations amended so as to read as follows: 'And I do further solemnly promise on my word of Honor that I will patronize only strictly union made goods and that I will use my best endeavors to get others to do the same; and that if I should become faithless to my obligation may I then be expelled from my union."

Mr. Davenport:

1903. "Committee on resolutions reports favorably. Report of Committee concurred in"? A. May I ask you, please, was that a convention of the American Federation of

5142 Labor.

Q. Yes, sir. A. Well, they appeared to adopt that resolution; the American Federation of Labor.

Q. Now, that is not the question. The question is, do you remember it? A. I don't, that particular resolution, from your reading of it, no, sir.

Q. Well, do you know James P. Maher? A. Who?

Q. James P. Maher? A. I know a James P. Maher, a member of the Hatter's Organization.

Q. Yes and for many years its very efficient— A. Organizer.

5143 Q. Organizer? A. Organizer, yes, sir.

Q. As well as its Treasurer? A. You refer to Congressman Maher?

Q. Congressman Maher, the man who is on the inside in reference to this business. I wanted to call your attention to another resolution. I neglected to ask you Mr. Conway, whether you attended that Convention of 1903? A. If I only knew the city it was held in, I could answer.

Q. Well, it was held at the city of Boston at Fanuel Hall? A. I wasn't at that Convention, no, sir.

Q. Now I wanted to read you another resolution that has been introduced in evidence here and was reported on

5144 by the Committee of Rules of which Mr. James P. Maher was a member. It was the Resolution 35 "Whereas a Retail Clerks' International Protective Association has been formed to improve the condition of the wage workers and

"Whereas it is affiliated through the American Federation of Labor with the general members of the movement, and

"Whereas it is the plain duty of every member of the labor union to call for the up-to-date Clerks' Union cards

when making a purchase, and compel the clerk to show his 5145
card before buying from him or his employer, be it

"Resolved that the Convention of the American Federation of Labor endorses the card of the Retail Clerks' International and Protective Association and appeals to every member and sympathizer to demand the same. Committee on Labels reports favorably. Report of Committee concurred in." Do you know anything about that? A. Possibly a resolution introduced by some of our delegates to that Convention in order to assist us in organizing work by creating a demand for our working card.

Q. Do you know anything about it, that is the ques- 5146
tion? A. Not personally, other than from reading the resolution.

Q. Did you ever know that it was passed? A. It wasn't at that Convention so I couldn't say, sir.

Q. Let me see, what position do you say you occupy? A. Secretary Treasurer at the present time.

Q. How long have you held that office? A. Little over three years; since my predecessor died.

Q. Before that time what was your position? A. International President for six years.

Q. Did you receive in your official capacity annually 5147
all the reports of the proceedings of the Conventions of the American Federation of Labor? A. Not while I was President, no, sir.

Q. Well, did the secretary? A. Our Secretary always did.

Q. And did you have general headquarters; his headquarters were— A. At Denver; but I wasn't there.

Q. Where were you? A. My position was on the road continuously.

Q. Well, each organization of the American Federation of Labor, it has been testified here, I believe, receives a copy of these proceedings? A. Those are very public; they all 5148
receive them.

Q. And you received them? A. They have been sent to my office address.

Q. And you received them? A. I never remember of having read that particular part.

Q. I am not speaking of that. I am now going to direct your attention to another matter? A. Yes, sir.

5149 Q. I understand you did receive them regularly? A. A copy of the American Federationist published by Mr. Gompers?

Q. No. The business of the Convention? A. No, I didn't receive those regularly when being President.

Q. What? A. I didn't receive them.

Q. Well, when you were an organizer? A. Not when I was organizer. I was never organizer for the American Federation of Labor.

Q. No, the Retail Clerks? A. We never received them.

5150 Q. Do you mean to say you didn't receive a copy of the proceedings of the Conventions of the American Federation of Labor as they were issued? A. No, sir; not at that time.

Q. Did you get them or see them? A. Never saw them, I don't believe. I think they were not hard to get.

Q. Well, they are published in enormous numbers? A. Yes.

Q. Four, five, six or seven thousand? A. Possibly.

Q. For the purpose of giving information? A. Propoganda work.

5151 Q. Propoganda work? A. Propoganda work.

Q. Now Mr. Conway, you have told us about the failure to put on the Journal of your Organization the name of Mr. Loewe; how about the name of Fred Berg & Co.? A. Who?

Q. Berg & Co. of Orange, N. J.? A. Never heard of them, sir.

Mr. Mulholland:

That wasn't the intent of the question, was it?

Q. No, sir; it was if he ever heard of a boycott put upon them? A. No, sir.

5152 Q. Did you attend a convention of the American Federation of Labor, held at Detroit, Mich., in 1899? A. Never attended that one, sir.

Q. I want to read a resolution that was adopted there: "Resolution No. 51, by Delegates Maher and Sculley: "Whereas the United Hatters of North America are at the present time engaged in a strike of large proportions at the office of F. Berg & Co. of Orange, N. J. for the recognition of their union, and for union conditions, and

"Whereas this strike has now lasted about two months and it is of vital importance not only to members of the or-

ganization, but also to organized labor in general that the 5153
United Hatters of North America should be victorious in the fight which they are making for the existence of their union; and

"Whereas the United Hatters of North America have never refused to give assistance financially and otherwise to their brethren who have asked for it; therefore

"Be it resolved that this convention hereby endorses and approves of the course pursued by the United Hatters of North America in their present fight against the wealthy concern who have declared that they will never recognize a labor union.

"Resolved that we call upon the International, National 5154
and Local Unions affiliated with the American Federation of Labor to give assistance to the United Hatters of North America in the unequal fight which they are at present so manfully making against wrong and oppression by refusing to patronize any dealer or dealers who handle the product of non-union labor, and more especially the product of the firm of F. Berg & Co., Orange, N. J. Adopted."

Do you say that does not bring to you mind anything? A. Absolutely nothing.

Q. Well, you note the language here? A. But it 5155
would have been the voluntary act of any one whether they bought or not.

Q. That may be, but I am directing your attention to the language here "By refusing to purchase of any dealer or dealers who handle the product of non union hatters"? A. They might refuse voluntarily; but it isn't obligatory upon them to refuse.

Q. Well, you consider that to be a boycott, don't you?

Mr. Mulholland:

That is objected to.

The Court:

This witness has testified that he did not attend the con- 5156
vention and this objection is that it is argumentative, I suppose. Objection overruled.

Mr. Mulholland:

Exception.

Q. Yes. "By refusing to patronize the product of any dealer or dealers who handle the product of any non-union manufacturers;" I will ask you whether or not that is not a boycott; "or any manufacturer of hats that employs non union hatters"? A. The resolution, if I may be permitted

5157 to answer it that way, was adopted by delegates to a voluntary body, and is not binding upon me nor any other member of organized labor.

The Court:

That does not quite come to the point; the question is whether that resolution favoring boycotting—

Witness:

Favoring a boycott?

The Court:

Yes.

The Witness:

5158 That I could not answer.

Q. Let me read it to you again and ask whether or not it is itself a boycott. "By refusing to patronize" not the manufacturers "patronize any dealer or dealers who handle the product of non-union hatters"? Now isn't that a boycott and what they call a secondary boycott? A. Now in stating—I couldn't answer it positive.

Q. Well, as an expert on boycotting? A. I am not.

Q. Well, now John. Moffitt made the following report to the members of his organization and says he wants to try and get this adopted, and this is also stated by Mr. Bailey, 5159 one of the defendants: "That the spirit of brotherhood and co-operation." I read from the bottom of page 15 "that has made the American Federation of Labor a mighty power in industrial affairs throughout the country, that organization gave to us in the Roelofs fight the same hearty pecuniary response which it had extended in former struggles, and the effectiveness of this means of enlisting in our cause, the sympathies of affiliated members can only be conjectured. Upon the direction of your General Executive Committee your President attended the Convention of the Federation at Scranton and with the assistance of our delegates had 5160 that body pass these resolutions." These delegates were Frank Shalvoy and William P. Bailey the defendant:

"Whereas the United Hatters of North America are at the present time engaged in a strike of large proportions, at the factory of Henry H. Roelofs & Co. of Philadelphia, for the recognition of their union and for union conditions, and

"Whereas it is of vital importance not only to the hatters organization but also to organized labor in general, that the United Hatters of North America should be victorious in

the fight they are making for the existence of their union, and 5161

"Whereas the United Hatters of North America have never refused to give assistance financial or otherwise to their brethren who have asked for it; therefore be it

"Resolved that this Convention endorses and approves of the course pursued by the United Hatters of North America in their present fight against the wealthy concern that has declared that it will never recognize any labor union."

At this time was your Association a member? A. Of the American Federation of Labor?

Q. Yes. A. Yes, sir.

Q. And represented by its delegation, one of whom was Max Morris of the Executive Council? A. No, sir; not at Detroit. 5162

Q. "Resolved that we call upon the international, national and local unions affiliated with the American Federation of Labor to give all the assistance possible to the United Hatters of North America in the unequal fight which they are at present so manfully making against wrong and oppression; and we hereby pledge ourselves not to patronize any dealer or dealers who handle the product of non union hatters, and more particularly the products of Henry H. Roelofs & Co. of Philadelphia, Penna. The adoption of this resolution was followed up by the action of the Convention in declaring a general boycott upon the product of the Roelofs factory. The effect of this action was almost immediately apparent." Now at the time that was passed Mr. Max Morris, the Secretary of your organization was a delegate? A. Yes, sir. 5163

Q. And at the same time he was the Vice-President of the American Federation of Labor? A. I don't think at that time he was, if that was the Detroit Convention.

Q. In 1901?

Mr. Merritt: 5164

That is not the Detroit Convention.

Q. This was Scranton? A. He wasn't Vice-President, I don't think.

Q. In 1901? A. He was elected at the Kansas City Convention. I don't know whether they proceeded now or not—he was a delegate to that convention.

Q. He was a delegate? A. Yes, sir.

Q. Now, do you not consider, Mr. Conway, that that call made by this organization upon its members was a boy-

5165 cotting act? A. Do I understand you to ask the question that the fact of the resolution being endorsed—

Q. It wasn't endorsed it was passed? A. Well, passed or endorsed is the same thing.

Q. Why it is passed there? A. I think it is the same thing by a Convention whether it was passed or endorsed.

Q. Did you regard that as a boycott? A. Not if it wasn't endorsed and passed.

Q. Well, if it was passed? A. I question just whether I would endorse it as a boycott.

Q. What on earth is a boycott? A. It is a very hard
5166 thing to define.

Q. At any rate where a lot of men get together and agree not to patronize anybody that deals with another party you call that a boycott, and what is called a secondary boycott, don't you? A. If a firm is unfair, they are so called, and declared not the friends of organized labor.

The Court:

Is that a boycott?

Witness:

I understand, Your Honor, the definition of a boycott is rather vague at best, is it not?

5167 Mr. Davenport:

Well, we know what it is today; Mr. Loewe found out what it was.

Witness:

I mean taking Webster.

Mr. Davenport:

No, Webster, and all the rest are very plain to me. Now, I understand you, you were unable to answer.

The Court:

In your testimony in chief did you refer to these matters or such a state of things as a boycott?

5168 Witness:

In mine, Your Honor?

The Court:

In your examination in chief did you have any reference to boycotting.

Witness:

No, I don't think any such question was asked me. I don't recall it.

Mr. Davenport:

5169 Well, in your examination in chief Mr. Mulholland asked you whether or not the Clerks' Organization had ever declared a boycott.

Mr. Mulholland:

That is not quite correct.

Mr. Davenport:

I understood it so.

Mr. Mulholland:

The question was whether or not in fact Loewe & Co. had ever been put on the unfair list, the "we don't patronize list" or "boycott list," and there was no examination on the 5170 question of boycott whatsoever?

Witness:

My answer to that, if my memory serves me right, was "no."

Q. Now, I was endeavoring to ascertain whether or not the Clerks' Union, either national or in its locals in the several central labor unions ever conducted a boycott against those concerns? A. Not to my knowledge.

Q. Not to your knowledge? A. No, not in the international.

Q. Can you give any testimony as to what action your 5171 locals took in regard to Mr. Loewe in San Francisco and elsewhere; can you give testimony of your own knowledge? A. Of whether they took any action against the firm or not?

Q. Yes? A. I can't.

Q. Well, I want to call your attention to this: "San Francisco July 14th, 1903: Messrs. ..... We beg leave to call your attention to the following products which are on the unfair list of the American Federation of Labor. We do this in order that you refrain from handling these goods, as the patronage of the firms named below is taken by the organized workers as an evidence of a desire to patronize those 5172 who are opposed to the interests of organized labor. The declaration of unfairness regarding the firms mentioned is fully sanctioned and will be supported to the fullest degree by the San Francisco Labor Council. Trusting that you will be able to refrain from handling these goods in the future, we are yours respectfully,

"Unfair list: Loewe & Co., Danbury, Conn. and Triest & Co., 116 Sansome Street, San Francisco, hat manufacturers." Now, I understand you, so far as you know, that is

5173 an untrue statement by these parties; in other words they represented that they were on the unfair list when they were not? A. I couldn't make a statement of that kind. I don't know.

Q. You don't know anything about it? A. I didn't know that any such action had been taken in San Francisco.

Q. Now I will ask you whether or not the members of your organization might not have very actively engaged in a boycott, both of Triest & Co. and D. E. Loewe & Co., without the name appearing on your unfair list? A. If they did it was by the acts of individuals.

5174 Q. Well it might have been in the locals, might it not? A. Their locals have no power to do any such thing.

Q. When called upon by the American Federation of Labor to do it? A. No, sir; absolutely no.

Q. Well, have you got those files accessible? A. No, I have none with me.

Q. Can you send us a copy? A. Which one, sir.

Q. The report of the—? A. Advocate or Official Magazine?

Q. Containing the unfair list and the official appearance of it during the years 1902, '3 and '4? A. I question

5175 whether we ever published an unfair list, or not. I don't remember of ever having seen it in our record.

Q. If you didn't publish an unfair list you wouldn't expect to find it on the unfair list? A. What?

Q. The name of Loewe & Co.? A. I never had heard of the name at the time even.

Q. You say you don't think your organization published an unfair list? A. No, sir.

The Court:

Don't think they published any at all?

Mr. Davenport:

None at all.

5176 Q. Had no list, I understand, Mr. Conway; this is carefully drawn? A. Yes, sir.

Recess until tomorrow morning at 10:00 o'clock.

Tuesday, September 24th, 1912, Morning Session, 10:00 A. M.

Witness,

5177

JOHN B. LENNON,

Sworn by the Clerk, Mr. Marvin.
The Court:
What is your name? A. John B. Lennon.

EXAMINED

By Mr. Mulholland:

Q. Where do you reside? A. Bloomington, Ill.

Q. How long have you resided in the City of Bloomington, Mr. Lennon? A. Since the first day of January, 5178
1895.

Q. Are you a member of any labor organization? A. Yes, sir.

Q. Of what organization? A. Well, I am a direct member of the Journeymen Tailors' Union since February, 1870.

Q. During the years 1902 and 1903, what, if any official position did you hold with the Journeyman Tailors? A. I was their General Secretary; Chief Executive Officer.

Q. And as such did you have charge of the officers of 5179
that organization? A. Yes, sir.

Q. And during that time where were those offices located? A. They were located in Bloomington, Ill.

Q. During the same period of time; that is the years 1902 and 1903, state whether or not you were an officer of the American Federation of Labor? A. Yes, sir; I have been its Treasurer since 1888.

Q. And you are still Treasurer of the American Federation of Labor?

Q. Well, as uch officer state whether or not you are a member of the General Executive Council of that or- 5180
ganization? A. By virtue of the office he becomes a member of the Council.

Q. During the years 1902 and up, say until October 1st, 1903, did you attend the meetings of the Executive Council of the American Federation of Labor held during that time? A. Yes, sir; I have missed two or three meetings in the twenty-four years I have been treasurer, and I am not sure that there was one of them in those

5181 years or not; I couldn't answer that, but I think not; I think they were earlier than that.

Q. Well, Mr. Lennon, did the Hatters' Organization, or any of its officers, at any time during the year 1902 and up until October, 1903, to your knowledge, apply to the Executive Council of the American Federation of Labor for the endorsement of any boycott or take any other action whatsoever in relation to the products of the factory D. E. Loewe & Co. of Danbury, Conn.? A. No, sir; they did not.

5182 Q. I will ask you the same question in reference to the Journeyman Tailors' organization, as to whether during the year 1902, and up until say October 1st, 1903, any application was made to the Journeymen Tailors to take any action whatsoever in reference to the product of the factory of D. E. Loewe & Co. of Danbury, Conn.? A. No, sir, none.

Q. What was the membership, approximately, of the Journeyman Tailors say in 1902 and 1903? A. I think my report would show about 15,000; 16,000 three or four hundred.

5183 Q. Well, during those years did that organization publish a Journal? A. Yes, sir.

Q. I will ask you if during the period that I have outlined the name of D. E. Loewe & Co. was published on any unfair list or "We don't patronize" list, or "Boycott" list; or any other list directing attention to the products of the factory of Mr. Loewe? A. No, sir; it was not.

Mr. Mulholland:

You may take the witness.

5184 CROSS EXAMINATION

By Mr. Davenport:

Q. Mr. Lennon, what is your full name? A. John Brown Lennon.

Q. Was your grandmother a sister of John Brown? A. No, sir; she is of the same stock, but wherever that is published it is a mistake.

Q. In one of the publications, eh; I thought I'd seen it? A. Four generations back; they originate with the same ancestors.

Q. Up here in Torrington, surely? A. Somewhere in Massachusetts or Connecticut. 5185

Q. Mr. Lennon, have you as Treasurer attended all the Conventions of the American Federation of Labor during your incumbrancy of the office of Treasurer? A. Yes, sir; I have attended every one since 1885, or 1886; one of those years. 1885, I think.

Q. Do I understand you to say that the American Federation of Labor never took part in any boycott of the goods of D. E. Loewe & Co.? A. Yes, sir.

Q. And any statement to that effect that may have been issued by these defendants is untrue? A. It is. It is not a fact. The Federation never took any such action. 5186

Q. Now, let us see if we understand what a boycott is: I want to read the following from the report of the Committee on Boycott adopted by the Convention: "We must recognize the fact that the boycott means war; and to successfully carry on a war we must adopt the tactics that history has shown are most successful in war. The greatest master of war said that war was the trade of a barbarian, and the secret of success was to concentrate all your forces upon one point of the enemy—the weakest if possible. In view of these facts, the Committee recommend that the State Federations and Central Bodies lay aside minor grievances and concentrate their efforts and energies upon the least number of unfair parties or places in their jurisdiction—one would be preferable. If every available means at the command of the State Federation and Central Bodies were concentrated upon one such and kept up until successful, the next on the list would be more easily brought to terms; and within a reasonable time none opposed to fair wages, conditions and hours, but would be brought to see the error of their ways and submit to the inevitable;" does that accord with your idea of what a boycott is? A. No, sir; I wouldn't give such expression to the views that I hold. 5187 5188

Q. But that is the view of the American Federation of Labor, of which these defendants are members, and in their Convention it was moved and seconded that the report of the Committee be adopted? A. When was that adopted?

5189 Q. In 1905. Well, as a member of the Executive Council, have you participated in declaring unfair the various concerns? A. I have.

Q. During the whole period that you— A (Interrupting) Well, the questions have not been before us at every session of the Executive Council; and in recent years much less often than fifteen or twenty years ago.

Q. Well, come down to 1903; did you attend all the meetings? A. As I say, I think I have either missed two or three in the twenty-four years I have been—

5190 Q. (Interrupting) Well, meetings of the Executive Council? A. Yes, sir.

Q. So that of the hundred or more—two hundred declarations of concerns here as being on the unfair list, which are in evidence here, you were present and participated in the declaration, did you not? A. No, I would say not; for the reason that during the earlier period of the Federation the Convention of its own volition declared some of the firms unfair; that ceased, I should say, about 1900—I wouldn't state positively—when the Convention no longer had the power to do it directly, and then they went to the Executive Council, whatever have been de-

5191 clared since then I never participated in.

Q. Well, my question was directed to the declarations of unfairness against concerns by the Executive Council? A. Well, I participated in all those whenever I was present.

Q. That is the question? A. Yes, sir.

Q. As to the other question, about what the Convention has done, the testimony here is full of cases different than state. Now, did you attend a Convention of the American Federation of Labor in 1899? A. Yes, sir.

5192 Q. And do you recall a resolution of this kind being then—you know John A. Moffitt, don't you? A. Yes, sir; I know him well.

Q. And have known him a great many years? A. I have known him since he was at all known in the Labor Movement.

Q. Well, that would be how many years? A. Oh, I would say fifteen or twenty years.

Q. You knew him as President of the United Hatters? A. Yes, sir.

Q. You know him now as one of the Legislative Committee of the American Federation of Labor? A. Yes, sir. 5193

Q. And you know where he lives, Mount Clair, N. J.? A. I am not sure that that is it. I may have known. I have forgotten.

Mr. Mulholland:

Speak louder, Mr. Lennon, won't you, so that the last man over here can hear you?

Witness:

All right.

By Mr. Davenport:

Q. You knew that he was one of the Fraternal Delegates to the Trades Union Congress in Great Britain, did you not? A. I know that he was a delegate; yes. 5194

Q. And he is reasonably familiar, I suppose, with the activities of the American Federation of Labor? A. Yes; but not as well posted as some other men.

Q. Well, in anything that pertains to the boycotting operations, if any, of the American Federation of Labor against Hat Manufacturers you consider that he is quite as familiar as anyone? A. Oh, yes.

Q. And if anybody wants to find out the activities of that organization in that direction it is very easy to get in touch with him, isn't it? A. Labor Organizations? 5195

Q. Yes? A. Yes.

Q. And what use was made of the machinery of the American Federation of Labor? A. No, sir.

Q. What? A. No, sir; he is not so competent to judge of that as many other men.

Q. Well, of what has been done in that connection? I want to read you a statement that is in evidence here in a report made to the United Hatters of North America, by John Moffitt: "With the spirit of brotherhood and co-operation that made the American Federation of Labor a mighty power in industrial affairs of the country that organization gave to us in the Roelofs fight the same hearty and prompt response which it had extended in the former strike; and the effectiveness of this action in enlisting in our cause the sympathies of affiliated trades can only be conjectured. Upon the direction of your General Executive Committee, your President attended a convention of the Federation at Scranton, and with the 5196

5197 assistance of our delegates had that body pass this resolution 'Whereas the United Hatters of North America are at the present time engaged in a strike of large proportions at the factory of Henry H. Roelofs & Co. of Philadelphia, for the recognition of their union, and for union conditions; and whereas it is of vital importance not only to the hatters' organization but also to organized labor in general that the United Hatters of North America should be victorious in the fight they are making for the existence of their union, and whereas the United Hatters of North America have never refused to give assistance,
5198 financial or otherwise, to their brethren who have asked for it, therefore, be it resolved that this Convention endorses and approves of the course pursued by the United Hatters of North America in their present fight against the wealthy concern that has declared it will never recognize any labor union; resolved that we call upon all the international, national, and local unions affiliated with the American Federation of Labor to give all the assistance possible to the United Hatters of North America in the unequal fight which they are at present so manfully making against wrong and oppression; and we hereby pledge
5199 ourselves not to patronize any dealer or dealers who handle the products of non-union hatters, and more particularly the product of the firm of Henry H. Roelofs & Co. of Philadelphia, Penna.'

"The adoption of this resolution was followed up by the action of the convention in declaring a general boycott upon the product of the Roelofs factory. The effect of this action was almost immediately apparent. Throughout the country similar action was taken by local trades councils and it is not too much to say that the final settle
5200 of the strike would have been much more difficult but for the co-operation and assistance thus secured." Now, when that action was taken, with this provision in it, in 1901—

Mr. Davenport:

December, 1901. "And we hereby pledge ourselves not to patronize any dealer or dealers who handle the product of non-union hatters," didn't the American Federation of Labor declare a boycott against the dealer or dealers of any non-union hat manufacturer? A. No, sir.

Q. Didn't? A. No, sir.

Q. Well, what is it but that? A. The result in a labor movement from the adoption of a resolution of that character is to pledge the membership in this instance to purchase all union labeled hats. 5201

Q. Well, but the language is very plain. I believe that you have written a good deal from time to time on the subject of the boycott, have you not? A. I have, very little.

Q. Well, as to its legitimacy? A. Very little.

Q. Now, what is this but a declaration notifying the dealers that they will not patronize them if they handle the product of non-union hatters? A. As I say, it was the specific purpose, evidently in view there to helping in the contest with the Roelofs Company. 5202

Q. Sure that is? A. That is the specific language.

Q. After the lining up you see generally and more particularly: "the product of the firm of Henry H. Roelofs & Co.? A. And the subject that Mr. Moffitt wishes—that was the object he had in view.

Q. Well, is that the best answer you can give in saying that a fair construction of that language to the whole world—and by the whole world I mean that this document was spread broadcast; that they will not patronize any dealer or dealers who handled the product? A. The reasonable construction of it is a declaration of unfairness of non-union product and that we won't patronize it. 5203

Q. Now, Mr. Moffitt, didn't put any such construction as you do upon it. Let me read you a circular that was issued by the defendants "San Francisco, July 14th, 1903. Messrs. so and so. Gentlemen: We beg leave to call your attention to the following products which are on the unfair list of the American Federation of Labor. We do this in order that you refrain from handling these goods, as the patronage of the firms named below is taken by the organized workers as an evidence of a desire to patronize those who are opposed to the interests of organized labor. The declaration of unfairness regarding the firms mentioned is fully sanctioned and will be supported to the fullest degree by the San Francisco Labor Council. Trusting that you will be able to avoid the handling of these goods in the future, we are Yours respectfully, San Francisco Labor Council. Unfair list"—Mr. Davenport: 5204

5205 "G. B. Benham, President, T. E. Zant Secretary" and agents of this defendant, the American Federation of Labor? A. I know both men.

Q. Yes, sure. Sure you do. The American Federation of Labor creates these labor councils, does it not? A. Some times.

Q. Well, but they issue charters to them? A. Yes.

Q. And that San Francisco Labor Council acts as an agent of these defendants in what they do—but I was interrupted. "Unfair list. Loewe & Co., Danbury, Conn., and Triest & Co., 116 Sansome Street, San Francisco; hat
5206 manufacturers"? Is it your idea that when the defendants, and Mr. Moffitt, and the rest of them put out that statement that there was no foundation for it? A. They had absolutely no authority whatever from the American Federation of Labor.

Q. Well, but the declaration that was spread all over the Pacific Coast in these circulars—they must have thought it was snowing out there they came so thick—do you mean to say that that is an unwarranted construction put by those gentlemen upon this resolution that I have just read? A. Yes, sir; that is in so far as the Loewe
5207 matter was concerned.

Q. Loewe & Triest? A. I have no knowledge of the Triest matter; never heard of it before.

Q. You know you never put upon this little thing in the American Federationist this Triest & Co.? A. I don't know.

Q. Now, while the name on that little list was in fine print in one corner put on the unfair list of the American Federation of Labor, do you know in that connection at all of putting Triest & Co. there? A. No, sir; I have no remembrance of it. I don't say it wasn't on,
5208 mind you, but I have no remembrance of it.

Q. Well, have you any specific remembrance about Loewe & Co.? A. Yes, sir; the truth of the matter is I have entirely examined the records and I find nothing of it, and I have no remembrance of it. I mean those two years.

Q. That is to say, that whatever the fact may be as to the treatment of this matter as unfair, and by everybody as unfair on the unfair list of the American Federation of Labor, in point of fact it never found its way onto

that list? A. That never was on a list. I am speaking of the Loewe Co. all the time. 5209

Q. I am speaking of the Loewe Co. too? A. All right.

Q. Mr. Lennon, you have been connected with the American Federation of Labor apparently since its formation? A. Well, I didn't attend the first two or three conventions, but the union of which I was a member was affiliated with the Federation from its foundation.

Q. But from 1885 down? A. Yes, sir.

Q. You have gone there as a delegate? A. Yes, sir. 5210

Q. And from what date have you been the treasurer? A. Since 1888.

Q. That is twenty-four years ago? A. Yes, sir.

Q. And one of the Executive Council? A. Yes, sir.

Q. And are entirely familiar with the general workings and structure of the organization, are you not? A. Yes. I think so. Yes, sir.

Q. Nobody more so perhaps than you, unless it be Mr. Gompers? A. That is right.

Q. Now, Mr. Lennon, in the structure of the machine, or machinery, whatever you may call it, of the American Federation of Labor, you have state federations? A. Yes, sir. 5211

Q. And you have city central labor unions or councils? A. Yes, sir.

Q. Both of them are bodies of delegates chosen by those locals that are members? A. Within their respective jurisdiction, yes, sir.

Q. Each local and the national is, by the constitution of the American Federation of Labor required to join a city central labor union if there is one there? A. No, sir. 5212

Q. Well, I will direct your attention to that later? A. All right.

Q. The locals of the Journeyman Tailors are affiliated with the various central bodies? A. Yes, sir; I think the locals of the Journeyman Tailors are as generally, if not more so, affiliated with central bodies and state federations than any union, with the possible exception of the printers, in the United States.

5213 Q. Well now, I have here a statement issued from the headquarters of the Alemeda County Federated Trades Council? A. California?

Q. I notice the name of The Tailors there; they are members? A. Of California; yes, sir; I have no doubt of it.

Q. And the San Francisco Labor Council? A. Yes, sir; and have been for many years.

Q. And also with the State Federation of Labor? A. I would hesitate to answer that positively with the State Federation.

5214 Q. What is your impression about it? A. My impression is they are, but I am not absolutely certain.

Q. And in the State of Washington? A. Yes, sir; some of them have been affiliated, I think since its foundation both the state and the city central.

Q. Seattle and Tacoma? A. Seattle and Tacoma and all those.

Q. And when you come down to Oregan, Astoria? A. Yes, sir.

Q. And Portland? A. Yes, sir.

5215 Q. And when you come down to the Southern part of California, Los Angeles? A. Yes, sir.

Q. How many members were there ten years ago in your organization? A. Sixteen thousand, in round numbers.

Q. About the same now? A. No, it is somewhat less now. I can explain that.

Q. Never mind that; approximately sixteen thousand? A. Yes, sir.

Q. And they were in pretty nearly every state in the union? A. In every state in the union and Canada some.

5216 Q. And these city central labor unions are in the various cities of the union generally? A. Yes, sir.

Q. And, of course, the state federations bear the names of the states in which it has a branch? A. The state in which it exists, yes.

Q. Now are you prepared to state here that the members of your organization took no part in the boycotting of D. E. Loewe & Co. through these local or city central labor unions? A. No, sir; I have absolutely no

knowledge of it one way or the other; never heard of 5217
the Loewe boycott.

Q. And you have no knowledge at all of what they did? A. No, sir, not a particle.

Q. Now this is a little interesting subject. In a boycott what control has the American Federation of Labor over the members or the subordinate unions if they don't carry out boycotts? A. They have none.

Q. None whatever? A. No, sir.

Q. Let me direct your attention to a matter—you ought to be prosecuted for having these things in such fine type? A. I think I agree with you. My eyes are not 5218
as good as they were forty years ago.

Q. I am going to read to you from a report of the Committee on Credentials to the 1895 Convention, page 60, which has been introduced in evidence here. "The Committee on Credentials reported as follows: The undersigned, your Committee on Credentials, having considered the protest of the Garment Workers against seating the delegate from the Progressive Musical Union has arrived at the following conclusion: In view of the fact that this organization has flagrantly and persistently violated the principles and constitution of the A. F. of L. in 5219
refusing to endorse the boycott levied by the Garment Workers and endorsed by the A. F. of L., and has done all in their power to offset said boycott, we recommend that the delegate be not seated.

"The Secretary stated that such action practically expelled the organization for refusing to endorse a boycott. While to censure might be in order, he thought expulsion seemed harsh. Delegate Baker upheld the organization's refusal to endorse the boycott on Hackett, Carhart & Co. For such action they were expelled from the National Central Labor Union. The report was adopted." Now 5220
there is an instance where they expelled a subordinate organization, did they not, because they had not endorsed a boycott? A. If that is the record it is unquestionably correct; but they did so contrary to the laws of the organization

Q. That is, you say the supreme body of the American Federation of Labor, which is the Convention, is it not? A. Yes, sir.

5221 Q. Violated the laws of the order in refusing to permit a representative in the body where the subordinate organization had opposed and endeavored to offset a boycott? A. The Federation is a federation, and not an organization as we generally use those words; and the power to discipline belongs to the affiliated organizations, or to organizations that are co-operating in the Federation, and the Federation would have no power—never exercised such power that I know of, to discipline a local union.

5222 Q. Well, this is not a local union; it is an international union? A. The Progressive Union was not. I don't believe it was an international union. It is a long time ago. I may be wrong.

Q. Do you remember the instance? A. I think that was a local union, that Progressive union; and not a National body at all.

Q. Well, it was a body that had a delegate who came up there and wanted to be seated? A. Yes, sir.

Q. And was driven out? A. I don't deny the record at all; but it is entirely out of line with the action of the Federation.

5223 Q. Now I want to run down these things here a little as bearing more particularly upon the matter that we have in hand here, and first I want to read to you from the report of the Convention of 1887 on page 28, under the title "Action on Label": At that time the United Hatters had not become formally affiliated with the American Federation of Labor, had they? A. I don't remember that.

Q. It is 1896 when they came in formally; but this is what I want you to listen to while I read it? A. Yes, sir.

5224 Q. "Whereas one of the greatest evils which confronts the labor organizations of the country today is the hostile influence of those persons who take the places of members of labor unions during times of strike or lockout, and whereas the manufacturers of goods made by such non-union help depend largely for their success on the patronage of the laboring men and women of the country; and

"Whereas various labor organizations throughout the country have adopted union labels to be placed on

union made goods; therefore, be it resolved that this Fed- 5225
eration pledge itself to do all in its power to promote and encourage the use of all labels owned or endorsed by national or international trades unions connected with this federation;" and in that connection I want to read from page 23, Report of 1888. This resolution, the Hatters' Union still not being formally not affiliated with the American Federation of Labor.

"Whereas the Iron Moulders, Cigar Makers, Bakers, Hatters, Journeymen Typographers and several other unions affiliated with the Federation of Labor have what is known as union labels to be placed upon articles man- 5226
ufactured by Union Labor, therefore, be it resolved that this Federation endorse all labels of unions affiliated with this Federation, and recommend that all unions be requested to purchase goods with union labels in preference to any other Adopted." And now I want to read in that connection another resolution which has been introduced in evidence here. I can't read it because I can't find it from my notes here. In 1890 Convention, on page 42, you remember the resolution in regard to labels, and the resolution concerning non-union men taking the places of union workers— 5227

Q. Mr. Ragan offered the following: "Resolved that it is the sense of this convention that it is inconsistent for union men to work with non-union men, especially when they are displacing their fellow unionists who may be engaged on strike or lockout. Resolved that the several unions of this A. F. of L. should in every way strive to advance the interests of their sister unions by rendering every assistance that it is possible for them to give one another in any trouble. Adopted."

Now it is in evidence here, Mr. Lennon, that this Labor Trust gained a complete corner in the Town of 5228
Danbury Labor Market so far as hatters are concerned, so that Mr. Loewe had to go and get green men and train them up, in order to carry on his business—

A. The question is embodied in your last statement; is that correct, predicated on what you have read?

Q. On what I have read to you, Mr. Lennon. I don't think you and I will ever get very far apart on any of these matters? A. The Federation has absolutely no power whatever to discipline a man who works with non-

5229 union men. Not the slightest; and if they have done so it is outside of my knowledge.

Q. The question is about his duty; whether or not as a loyal member of the American Federation of Labor, in view of those two resolutions in a given case like that of Danbury, for the members of the American Federation throughout the country to refuse to go to work in the place of those men and to buy only goods that bear the union label.

Witness:

5230 Well, it is a matter with which the Federation has nothing to do.

Q. Well, you finally turned them out once. Now I am going to ask you some more questions about these instances which you are so familiar with and these operations. I am going to read you now, from the report of the proceedings of the Convention of 1891, which was five years before the formal affiliation of the Hatters with them, and it was one year though after the passage of the Sherman Anti Trust Act by Delegate McGuire; you knew P. J. McGuire well, didn't you? A. Yes, sir.

5231 Q. And he if anybody knew what the American Federation of Labor was, didn't he? A. The greatest mind that ever lived in this country.

Q. Sure, barring, of course, one. You put him above Mr. Roosevelt? A. I am not here to deliver an address to the Bull Moose; I can tell you that.

Q. Nor I either "Whereas the firm of F. Schobel & Co. hatters, Philadelphia, have discharged their union employees— A. Read that again, I missed it.

Q. "By Delegate McGuire. Whereas the firm of F. Schobel & Co., Hatters, Philadelphia, have discharged

5232 their union employees and will not accede to union rules, and has declined all offers of arbitraiion, therefore, be it resolved that this Convention of A. F. of L. recommend that all its affiliated organizations and members of trade and labor societies do not purchase any hats made by the said firm of F. Schobel & Co. Adopted." Do you recall the passage of that? A. No; I don't specifically recall it.

Q. Can you explain how it comes to pass that this unaffiliated organization having trouble with a firm of

hatters in Philadelphia this Convention of A. F. of L. passed this resolution? A. Yes, sir; I can explain it. 5233

Q. How is it? A. Certain local unions—hatters like locals of other crafts, who are not affiliated with the Federation as an International Union—

Q. Well, my friend, right here; this was on the application of the hat finishers union; the Hat Finishers' International Union, not local? A. Well, they were—what I was going to explain was that while not affiliated directly with the federation they were affiliated with certain central bodies.

Q. That's it? A. And in that way these delegates 5234 became interested in their welfare, even though the national or international was not directly affiliated with the federation.

Q. Although the hatters organizations were not actually affiliated with the American Federation of Labor by receiving a charter from them, yet with this vast net work of Central Labor Unions the local bodies and the International Unions not so affiliated by reason of their membership, had the right to call upon the American Federation of Labor for its action and receive it in that way—its support; is it not so? A. The record there shows 5235 that.

Q. Now isn't there another way by which they can accomplish the same result? A. I want to read you now from the proceedings of the Convention of 1890: "Be it resolved to suspend from further representation the Trades and Labor Assembly of San Francisco California until such time as Local No. 16 is suspended from the Trades and Labor Assembly for insubordination to the National Union of Brewery Workmen. They were suspended because they refused to pay an assessment of ten cents per capita levied by a general vote. Committee report con- 5236 curred in." Now I will ask you if you don't recall that the members of Labor Assembly of San Francisco ceased to exist in consequence of that action, and what is called the San Francisco Labor Council was chartered by the American Federation of Labor in its stead? A. Yes, sir; I remember it very well.

Q. And that action was taken because they admitted into the Council delegate from a union which had

5237 been so in disfavor, to say the least, that the National Union of Brewery Workers—

Witness (Interrupting):

That was one of the causes. It was not the only one; that was one of the causes of the dissolution of that old central body.

Q. Well, now, I want to call your attention to another action on the resolution, and I ask you to give close attention to it, and then tell me whether or not you are not in error as to the relation between the American Federation of Labor and its affiliated organizations: "Del-
5238 egate John Clancy." Do you remember him? A. Yes, sir.

Q. A man whom you would say was well up in the Labor Movement, would you? A. Oh, yes, fairly so.

Q. "Petition for amending the constitution of the American Federation of Labor. Section 2, Article VII. The Executive Council shall use every possible means to organize new national or international trades and labor unions, and to organize local trade and labor unions and connect them with the federation, until such time as they are in sufficient numbers to form a national or in-
5239 ternational union, when it shall be the duty of the President of the Federation to see that such organization is formed.

"Sec. 3. While we recognize the right of each trade and labor union to manage its own affairs, it shall be the duty of the Executive Council to secure the unification of all Labor Organizations so far as to assist each other in any trade or labor dispute. The immediate adoption of the foregoing section is requested as emergency exists." That was later adopted. It was in itself only an amend-
5240 ment to a previously existing provision in the constitution which inserted the word "labor" instead of "to organize international trade unions" it was made to read and "labor unions?" A. Yes, sir.

Q. Now Mr. Lennon is it not so in the first place that a very large number of the International Unions that composed the American Federation of Labor have been created by the American Federation of Labor? A. Yes—if you apply that term in the broad sense of embracing the entire membership of the organization; yes.

Q. Well, let's see if we can get right straight down 5241
to this; the method is this; to send out organizers and if possible form local unions and when they get enough of those together to form a national union, why—previously perhaps charters are granted to the locals—and when there is enough of them to form an international union then the president gets them together in an international union or national union; that is the way it is done, isn't it? A. That is the way, but I am strongly impressed that the direct influence has come more from other organizations,—for instance like our unions, the tailors—why practically the garment workers, and the ladies' garment work- 5242
ers and the shirt waist workers grew out of my efforts; they were part of the Federation.

Q. And you are acting under explicit instructions from the American Federation of Labor to do just that thing? A. Not specifically as to those particular cases, but specific as to the principle; yes.

Q. The principle activity? A. Yes, sir.

Q. Now then, the creator thus having established its subordinate branches there follows this: "While we recognize the right of each Trade or Labor Union to manage its own affairs, it shall be the duty of the Exec- 5243
utive Council to secure the unification of all labor organizations so far as to assist each other in any trade or labor dispute"; now every union that becomes affiliated with and receives a charter from the American Federation of Labor receives it under an agreement to be governed by the constitution, rules and usages or practices of the American Federation of Labor, does it not? A. Yes, sir.

Q. So that every union that is embraced within the vast folds of the American Federation of Labor is subject to that rule on the part of the Executive Council, 5244
and that duty on the part of the Executive Council to hold them all in the efforts in aid of any one that may be engaged in any trade or labor dispute, is it not? A. That is their duty in a dispute that has been approved by the Federation.

Q. Is it true that all this amount of machinery, as I have read to you from that resolution of 1905 should be used to promote any boycott that has been established by any international union, is it not so? A. No, sir.

5245 Q. Well, we can't stop for that. I thought perhaps you and I would agree on that. Well, now, come down to the year 1896 when the hat finishers and the hat makers having amalgamated formally became affiliated with the American Federation of Labor, and John Phillips—you knew him well, didn't you? A. I did sir, I ate supper and dinner and breakfast with him many a time, and he at my house.

Q. And he, I notice, the very first year landed on the Committee on Labels and Boycotts? A. I don't remember that.

5246 Q. And he reported this resolution in that capacity: "Whereas the hat finishers International Association and the Hat Makers' National Association have recently been amalgamated into one organization to be known as the United Hatters of North America; and whereas this amalgamated body will now have full authority and jurisdiction over the eflt hatting trade and over the hatters' union label and we are now taking steps to place the label in a position where it will be still more effective than it has been in the past; therefore be it resoved that the delegates here assembled do most sincerely and em-

5247 phatically endorse the label of the United Hatters of North America; and we call upon all affiliated unions of the American Federation of Labor to support the latter's label in every way possible; resolved that the most effectual way to support the label is to refuse to purchase any fur or felt hat that has not the genuine label stitched into it; resolved that we hereby pledge ourselves to uphold the United Hatters of North America in their efforts to make their label a success; and we also pledge ourselves not buy or wear any fur felt hat either soft or stiff, unless

5248 the genuine label is stitched into it. Committee recommends its adoption. Approved." Now that was six years after the Sherman act was passed, and I will inquire of you now, Mr. Lennon, whether every loyal member of the American Federation of Labor is not thereby committed not to buy or wear any fur or felt hats either soft or stiff unless the genuine label is stitched into it? A. Yes, they are.

Q. Without turning to the exact spot in these records—I wish I had made a minute of it—Do you recall an action that was adopted in the Convention of the

American Federation of Labor as to the obligation of a member to conform himself to a declaration of the principle made by the Convention, and that Mr. Gompers as President then in the chair having ruled that it was their duty and appeal was taken from his decision and the Convention by a vote of fifty to five he was sustained in that; do you recall any such instance there? A. No, I don't remember that instance. I don't remember the instance. It must have been dealing with something specific to have called for an appeal from the Chair. 5249

Q. Sure; but it was upon the general principle? A. Well, the general principle is right. I am a mason and I believe it is my duty to be true to the masons. 5250

Q. Sure, and that is what you all say; all the followers of this organization, isn't it? "Stick by your union"? A. When it is right.

Q. Well, stick by your union anyway, isn't it? A. No, sir; no, sir.

Q. Well, what do you mean by right, when it don't agree with the individual opinion of the member? A. When it don't agree with the fundamental laws and declarations of the organization.

Q. What is that? A. I say I mean by right when it isn't—when the action taken isn't in harmony with the laws and declarations and principles of the organization. 5251

Q. Well, now, take for instance this; your organization prohibits its members from belonging to the National Guard? A. No, sir.

Q. Are you sure about that? A. You mean the—

Q. The American Federation of Labor, not the tailors? A. No, sir. There are some unions do it.

Q. No, I am talking about the American Federation of Labor? A. No, sir.

Q. If I can read into this record that resolution, do you mean to say you still adhere to your position, your views, your opinions, statement? A. That what? 5252

Q. That the American Federation of Labor does not forbid its members and the members of the local unions of its affiliated unions becoming connected with the National Guard under certain conditions? A. I have been a member of the National Guard since I have been a trade unionist.

5253 Q. And are you aware that there is a provision of that kind? A. No, sir; it has been before the Conventions and always defeated in my remembrance.

Q. Well now, it is irrelevant to what we are talking about and I will take your statement on it; but our memories are very treacherous these times.

Q. You remember the Convention of 1892? A. Well, in a general way.

Q. And that a Committee of Nine on Militia was appointed? A. I do, since you mention it.

Q. And I didn't know— A. But I was one of them?

5254 Q. No, I see you are not. I want to read it to you now.

Mr. Davenport:

Pages 32 and 33 I am going to read:

"Report of special committee of nine on Militia. The special committee of nine on militia reported as follows: Convention called to order with President Gompers in the chair.

"The special Committee of Nine, to whom was referred the several resolutions bearing upon the employ-

5255 ment of the militia and irregular armed bodies, and also the standing army of the United States in the recent labor troubles beg leave to report that the said Committee have had the subject matter in connection with the several resolutions referred to it under careful consideration, and find that the power designed to rest with the masses of the people as expressed in the Constitution of the National and State Government and the statute laws for the protection of life and property and to carefully guard the rights and liberties of the people, has been diverted from the purposes of their authors, and that the masses have

5256 lost the powers guaranteed to them, and that those powers have been usurped by large corporations. The calling out of state and national troops as well as irregular armed bodies, has been done on the solicitation and instigation of corporations. The power that has departed from the masses has been absorbed by the corporations, and unless a halt is called it will not be long before liberty gives place to despotism. Since the recent uses to which troops have been subject have been brought about by allowing the people unchallenged to surrender their power, we therefore believe that herein lies the vital point of our griev-

ances; and in order to keep, maintain and perpetuate our rights, we recommend, in accordance with the demands of the numerous resolutions upon the subject the following propositions for your consideration. that the A. F. of L. and its affiliated bodies demand of their respective legislatures the enactment of laws embracing one of the following propositions which in their judgment may seem the most advantageous. First, they shall create a Board of Commissioners to be elected by the people, consisting of as many members as there are Congressional Districts in the State. Each member shall be elected by the Congressional District in which he resides. The said Board of Commissioners after investigation of the difficulties, shall in conjunction with the Governor have sole power to call out the militia in cases of labor troubles or strikes, or second, that in cases of labor difficulties it shall be unlawful for the governor to call out the militia for the suppression of the same, except upon a petition signed by at least one fourth of the qualified voters of the country wherein the trouble may exist. 5257 35 5258 36

"We further recommend as a remedy for the employment of Pinkerton or other armed forces, that we demand the enactment of laws by the several states of the Union prohibiting non-residents from serving as peace officers. 5259 7

"Mr. President, Your Committee recommends the following upon membership in the different militia companies in the country, that the A. F. of L. and its affiliated bodies should refuse, under any circumstances, to permit any member to enlist in the National Guard of any state; and that the members now enlisted be requested to withdraw as soon as they can lawfully do so, unless one or the other of the propositions herein proposed are embodied in the state laws.

"Moved to adopt the report of the Committee. Moved to amend that the matter lay over 'till afternoon session. Lost. 5260 8

"Moved rules be suspended and remain in session until the matter is disposed of. Pending the discussion the hour of twelve forty five having arrived, the President declared the Convention adjourned until 2:15 P. M. Afternoon Convention called to order with President Gompers in the Chair. Roll call and absentees noted."

5261 Well there was unanimous consent to take up another matter. "Delegate Morgan amended Committee's report as follows: That the force necessary to the proper constitutional use of the militia lies in labor representation in the Legislative and Administrative Departments of the respective states; hence we urge the working classes to see to it that members and friends of the working classes and not the agents of monopoly shall command the military and other departments of our state and national government. Amendment agreed to. The entire subject matter was discussed on its merit at great length.
5262 Report as amended was then agreed to unanimously."

Now I note the following in that report:

"Your committee recommends the following upon membership in the different militia companies in the country, that the A. F. of L. and its affiliated bodies should refuse, under any circumstances, to permit any member to enlist in the National Guard of any state; and that the members now enlisted be requested to withdraw as soon as they can lawfully do so unless one or the other of the propositions herein proposed are embodied in the state
5263 law; that is to be called out only by a Board of Commissioners elected by the people, or on petition of one-fourth of the qualified voters of the country wherein the trouble may exist." Now do you say that the American Federation of Labor does not impose its obligations on the individual members of the union? A. No, it absolutely hasn't.

Q. In the face of this resolution? A. No, sir. The Morgan amendment almost destroys the original proposition.

Q. Oh, well, that is a matter of assumption.

Mr. Davenport:

5264 Why it says on page 33 "The amendment was agreed to" then "the entire subject was discussed on its merit at great length and the report as amended was then agreed to unanimously?" A. Trades unionists are members of the militia all over the country now.

Q. Well, that is in spite of the organization instead of because of it? A. There is absolutely no interference; not the slightest.

Q. Well, here we have this before us; the only point of this is as to whether or not, and according to the

structure of your organization, the Supreme Body, the Convention, does act upon individuals or not? A. It does not, no, sir. 5265

Q. Well, now, on that subject, let me recur to a very pleasing resolution here as it relates very much nearer to this subject that we have been investigating: "Delegate Ryan."—I am reading now from the report of the proceedings of the Convention of 1903, on page 202—do you know Mr. Ryan, W. D. Ryan? A. That is the miner?

Q. He was for many years the Secretary— A. Of the miners?

Q. Of the United Mine Workers of America? A. Yes, sir; I know him very well. 5266

Q. And a very bright man? A. Yes, sir.

Q. "Delegate Ryan for Committee on resolutions tendered his report as follows: Whereas the union label is not patronized by organized labor as well as it should be; and whereas the merchants that handle union made goods and employ union clerks complain that union men as a rule do not ask for the union made products; there be it resolved by the American Federation of Labor in Convention assembled that all international organizations and federal organizations attached to the American Federation of Labor have their obligation amended so as to read as follows: And I do further solemnly promise on my word of honor that I will patronize only strictly union made goods and that I will use my best endeavors to get others to do the same; and that if I should become faithless to my obligation may I then be expelled from the union. Committee on resolutions report favorably. Report of Committee concurred in. Now do you say, Mr. Lennon, that the American Federation of Labor does not attempt to dictate and does not dictate to give a fearful penalty to individual members of the union? A. Yes, sir; I still say the same. The enforcement of that resolution would lay with the local unions and not with the Federation. 5267 5268

Q. Well, but this is the highest authority in the Labor Church that has spoken? A. And even beyond that it mentioned something there that the Federation is and has been for years absolutely opposed to in the labor movement, and that is the expulsion of a member of a

5269 trade union. I have stood against that since I was comparatively a boy.

Q. Oh, an individual member of this vast organization? A. I mean the Federation stands against the idea of expulsion.

Q. That is the action of the Federation, and this was reported by no less a man—that is the Committee on Resolutions; let's see if Mr. Lennon— A. No. I have been on one Committee ever since I was in the Federation.

Q. What is that? A. Committee on Laws.

Q. Well, that is the constitution? A. Upon the con-

5270 struction of it.

Q. Well, the committee on laws? A. That is from the Committee on Resolutions, not Laws.

Q. So the Committee on Laws is the one that has charge of amending the Constitution? A. Yes, sir.

Q. Well, that resolution that I read here in regard to amending the constitution eminated from your Committee, did it not? A. No, sir.

Q. This one a little ways back about their duty to organize, and the duty of the Executive Council to see to it to bring about the unification? A. Oh, yes.

5271 Q. That eminated from your Committee, didn't it? A. Yes. I don't suppose it originated with the Committee. It was probably handed in by some delegate.

Q. And reported favorably by you. Your organization publishes a Journal, does it not? A. Yes, sir.

Q. And are you the editor of it? A. I was up to a couple of years ago. I am not now. I was from the time it started 'till the first of July, 1910.

Q. Well, I see here in 1904 a list of official and weekly labor journals received at headquarters of the American Federation of Labor, 423-425 G. Street, N. W.,

527? Washington, D. C., commencing with American Federationist and running down two columns; and what do you call yours? A. The Tailor.

Q. The Tailor up there (indicating)? A. Yes, sir.

Q. And then the Labor Press a couple of pages more? A. Yes, sir.

Q. Now, are those the Journals and papers or magazines to which when the Executive Council puts anyone on its unfair list an appeal is made to publish? A. Oh,

are they the ones that are requested to publish circulars and letters? 5273

Q. Yes, and when a declaration of unfairness is made against any individual concern? A. Why, copies are no doubt—I don't do that work, but I have no doubt they are sent to all these papers.

Q. Well, the array of organs in the Labor Movement to which the appeal is made "Labor and Reform Press please copy"? A. I have no doubt about that fact. I never have done the work. That work didn't come in my—

Q. Now, did you publish in your Tailor, as you call the paper, that list? A. Once in a while; irregularly. 5274

Q. Irregularly? A. Yes.

Q. If they were formally put upon the unfair list and you were called upon to publish them, it didn't always appear? A. No.

Q. And from the absence of it you couldn't draw any inference that no action had been taken by the American Federation of Labor, or by the organization, its subordinate, could you? A. I don't just understand your question, Mr. Davenport.

Q. In view of the fact that you didn't publish the unfair list regularly in pursuance of appeals made to the labor press to copy the notice that such a concern had been declared unfair you wouldn't infer that such action had not been taken? A. Oh, no. No. 5275

Q. So that the absence of it from your paper is of a negative character as proof that no such action was taken? A. Not evidence of any kind either one way or the other.

Q. Well now, Mr. Lennon, how many locals did you have in your organizaiton ten years ago? A. Well, approximately four hundred; perhaps ten or twelve more or less. 5276

Q. Well, now, those four hundred locals approved of your membership, did they not? A. Yes, sir.

Q. Are you able to testify here that any one of those locals, through the instrumentality of the central labor union, did not participate in this boycott against D. E. Loewe & Co.? A. They may have done so in that way, but they didn't—

Q. Well answer the question? A. No, I am not able to swear they didn't.

5277 Recess.

By Mr. Davenport:

Q. A single question, for the purpose of showing the circulation of the Journal of the American Federation of Labor. I direct your attention to the report of the Committee on Laws 1893, page 65, first column "It shall be the duty of the President of the American Federation of Labor to supply semi-annually to all affiliated central bodies, as well as to all national or international unions, a list of addresses of secretaries of central bodies as well as the organizers of the American Federation of
5278 Labor. The Committee recommend a favorabe consideration of the incoming Executive Council. Agreed to."

Q. Do you know what action was taken? A. Yes, sir.

Q. What was it? A. An effort was made to secure from the affiliated national and international unions the addresses of their local unions.

Q. No, this don't relate to that? A. What.

Q. This doesn't relate to that; "It shall be the duty of the President of the American Federation of Labor to
5279 supply semi-annually to all affiliated central bodies as well as to the national or international unions, a list of addresses of the secretaries of central bodies as well as the organizers of the American Federation of Labor?" A. It was not done specifically as the resolution set up, but it has been done in effect. It has been done: the central bodies were included who were not before included to receive official documents.

Q. And you issued a directory? A. No, I think—

Q. (Interrupting) Don't you recall that the— A. (Interrupting.) There has been at times; there has been
5280 published something that you might call a directory. It is not a regular publication, however.

Q. Well? A. Several times such a document has been published.

RE-DIRECT EXAMINATION

By Mr. Mulholland:

Q. This directory that you refer to is a little pamphlet gotten out from time to time by the American Federation of Labor giving the affiliated Internationals and

addresses of their officers? A. Yes, and of the central bodies. 5281

Q. And of the central bodies; I mean affiliated bodies; international, local, federal unions, etc.? A. Yes.

Q. In your cross examination Mr. Davenport called your attention to a resolution which I understood him to say was adopted at the 1901 convention of the American Federation of Labor. I am referring to Resolution 45, which he referred to you and questioned you quite extensively upon; I want to hand you the minutes of the Convention of 1901, and ask you to state to the Jury whether or not this resolution was ever adopted by the 5282 American Federation of Labor? A. I remember the resolution without even reading it.

It was not adopted. It was referred to the Executive Council.

Q. Now that is the resolution in which the name of Roelofs & Co. was mentioned and which Mr. Davenport said would declare a boycott on all firms handling non-union hats; do you recollect what, if any action, was taken by the Executive Council at the time the matter came before the Council? A. Yes, sir.

Q. And what action was taken? A. The application 5283 was considered there specifically as to the Roelofs Company and to place it on the unfair list was approved; there being nothing else specific in the resolution; nothing further was done.

Q. Now do you recollect that in the Convention prior to the one just referred to—that would be the Convention of 1899—that a similar resolution was adopted in reference to Berg & Co.? A. I think I remember it. It is a matter of record; that would be. I believe, though, that I remember it; I remember something of the Berg matter. I think it originated through that resolution. 5284

Q. Do you know whether or not any action was taken along about 1901 or 1902 wiping out all of the boycotts that had theretofore been declared by the American Federation of Labor? A. Yes, sir.

Q. And do you know—

Witness (Interrupting):

That is a matter of record.

Q. Beg pardon? A. That is a matter of record.

5285 Q. Can you tell the jury about when that was? A. Well, it was to take effect on some date in February succeeding the Convention; whether that was the Convention of 1899 or 1900, or a year earlier, really I can't remember without—

Q. Without refreshing your memory from the record? A. No, sir.

Q. Well do you know whether or not this Berg boycott disappeared at that time so far as being upon the list was concerned? A. I can't answer that question. I think they all disappeared except those that may have
5286 been renewed.

Q. Yes, there was a provision in that resolution, as I understand it, that those that had been taken off the record, upon proper presentation and justification could be placed upon the record? A. And also that an effort must be made to try and bring about an adjustment.

Mr. Mulholland:

That is all.

RE-CROSS EXAMINATION

5287 By Mr. Davenport:

Q. It is a good while, Mr. Lennon,—it is a good ways back that you are testifying now in regard to the Berg strike or the Roelofs strike? A. Well, it was; yes; it is a number of years. I can't tell how many years.

Q. It is eleven years this year of our Lord? A. Yes.

Q. Now are you able to state positively in the presence of this intelligent jury that you can recollect just what action was taken by the convention in regard to
5288 that Roelofs matter? A. Do you mean as to its passage or failure to pass?

Q. As to its passage by the Convention? A. I read the record.

Q. Just now? A. What?

Q. Just now? A. Oh, no; oh, no. Within perhaps a few weeks or months, and I also looked at the records of the Executive Council, and it came very clearly to my memory.

Q. Well, now, what was that memory; just describe to the Jury, after the lapse of eleven years? A. You

mean when this resolution came before the Executive Committee? 5289

Q. Yes, I mean that action taken that came clearly to your memory as refreshed? A. The action taken by the Executive Council was to approve of the specific matter of the request to put the Roelofs Company on the unfair list; and nothing more was done with the substance of the resolution.

Q. Nothing was required to be done, was there, if it was adopted? A. If it was adopted by the Council?

Q. By the Convention? A. It wasn't adopted by the Convention; it was referred to the Executive Council. 5290

Q. Because you refreshed your recollection on that entry in there. Now let me direct your attention to the very ambiguous language of this: "Your committee recommends that the same be referred to the incoming Executive Council. Delegate Shalvoy discussed the resolution. The report of Committee was concurred in." That is a little blind, isn't it? A. No, that form is used at times.

Q. Recommend that it be referred to them for carrying out? A. No, it doesn't carry with it that signification.

Q. Now I want to call your attention to things in the day and time of it—are you not mistaken about that? Bear in mind that these gentlemen proceeded to act just as if it had been passed and they proceeded to injure this plaintiff just in that way, by promulgating to the world by circulars spreading them over the Pacific Coast of Mr. John A. Moffitt's report about this? A. The same that you read to me before? 5291

Q. Surely? A. Yes.

Q. John A. Moffitt is a bright man, isn't he? A. Yes.

Q. What? A. Yes. 5292

Q. I think when he comes before the jury they will have an opportunity to judge? A. You ought to call him.

Q. "Upon the direction of your General Executive Committee, your President attended the Convention of the Federation at Scranton, and with the assistance of your delegates had that body pass this resolution." Then follows the resolution. "The adoption of this resolution was followed up by the action of the convention in declaring a general boycott upon the products of the Roelofs fac-

5293 tory. The effect of this action was almost immediately apparent"? A. Well, John was mistaken.

Q. He was mistaken? A. Yes.

Q. Now here is a defendant—I read from the report of Delegate Bailey "To the editor of the Journal of the United Hatters of North America." In the February, 1902, American Federationist the Convention also passed a resolution endorsing the boycott of the United Hatters against the unfair firm of H. H. Roelofs & Co., Philadelphia." This was in February when this defendant a del-

5294 egate was making a report as to what occurred. Now do you still say in the face of that that the convention did not pass that resolution? A. Yes, sir; I say they did not pass it.

Q. As a matter of independent recollection? A. Yes, sir.

Q. Now? A. Yes, sir.

Q. After the lapse of eleven years? A. Yes, sir.

Q. You independently remember that they did not take the action that Mr. Moffit says they took and Mr. Bailey says they took? A. I do.

Q. Now, then, when was this Convention of the

5295 Council meeting held? A. Well, it is usually—I don't remember the date of the Convention at that time—it is usually held about—well, I should say on an average of about six weeks after the Convention; sometimes a little earlier and sometimes a little later. The Council met after the Convention. Our Conventions then met have been meeting in December. I am not sure.

Q. They did? A. What?

Q. They did meet then? A. Yes; then we probably met either early in January or early in February.

5296 Q. Now let me call your attention to the impossibility of that statement? A. I ought to add though to that that on a few occasions where it was possible—you won't object to what I am going to say.

Q. I won't object to anything that is true; that is not founded on mistake? A. The Executive Council instead of meeting six or eight weeks after often when it was possible met immediately upon the adjournment of the Convention. That did sometimes happen.

Q. I read now from the report of the Executive Council to the New Orleans Convention held on Novem-

ber 13th, 1902. "We have had five meetings of the Exec- 5297
utive Council, the first being held at Scranton immediately after the close of the Convention held there lasting two days. The second meeting was held at American Federation of Labor Headquarters at Washington, April 14th, to 19th, inclusive. The third meeting at San Francisco, July 21st to 26th; the fourth held at headquarters April 6th to 11th, and the 5th in New Orleans November 12th? A. Yes, sir.

Q. Now, is it your recollection that this action was taken by the Executive Council—by the Convention—at the meeting at Scranton? A. I would hesitate to say. 5298
I am not sure. The probability was strongly that it was, though I don't state that positively.

Q. It appears in the Federationist under date of January 3rd—the notice. Well, now what action did you take there? A. The action that was taken was the approval of the request to put the Roelofs Company on the unfair list.

Q. Well, did John Moffitt appear there? A. I think not. I believe I would recall if he had.

Q. Well, you approved of the action of putting it on the unfair list, did you? A. Yes, sir; and that had been re- 5299
quested.

Q. By the Convention? A. Well, it came to us in that way and possibly others besides.

Q. Now you may be mistaken about it? A. Men are liable to be mistaken; but I am certain as to this matter.

Q. And the sum and substance of it is that so far as action was taken by your Council it was to do just what the Convention said? A. It was to place this firm on the unfair list, but it didn't embrace the whole world as the resolution you read did.

Q. That was attended to by the resolution itself; what 5300
you did was to put it on the unfair list and publish it as such, was it not? A. Yes, sir.

Q. Well, now, is your recollection equally as clear about the Berg resolution? A. No, sir; it is not. I remember something about the Berg matter, but it is not distinct.

Q. You knew John W. Sculley, did you? A. I haven't met him for a number of years. I used to know him. I don't even know whether he is alive for sure.

5301 Q. He is a lively defendant here? A. Is he. Of course, I knew him. Yes. Excuse me for making the statement then.

Q. Now to turn to the question of whether the American Federation of Labor has actually put a secondary boycott in operation in hats, let me read this to you from the Proceedings of the Convention of 1899 on page 52: "Resolution No. 51, by Delegates Maher and Sculley: Whereas the United Hatters of North America are at the present time engaged in a strike of large proportions at the factory of F. Berg & Co., Orange, N. J. for the recognition of the union, and for union 5302 conditions; and whereas this strike has now lasted about two months and it is of vital importance not only to the hatters organization but also to organized labor in general that the United Hatters of North America should be victorious in the fight which they are making for the existence of their union; and whereas the United Hatters of North America have never refused to give assistance financially or otherwise to their brethren who have asked for it; therefore be it resolved that this Convention hereby endorses and approves of the course pursued by the United Hatters of North America in their present fight against the wealthy concern that has declared 5303 that it will never recognize any labor union; resolved that we call upon all international, national and local unions affiliated with the American Federation of Labor to give assistance to the United Hatters of North America in the unequal fight which they are at present so manfully making against wrong and oppression by refusing to patronize any dealer or dealers who handle the product of non union hatters, and more especially the product of F. Berg & Co. of Orange, N. J. Adopted." Now here is the trumpet call to all the hosts of the Federation of Labor.

Mr. Mulholland:

5304 That is objected to.

Mr. Davenport:

"To give assistance to the United Hatters of North America by refusing to patronize any dealer or dealers who handle the product of non union hatters and more particularly the product of F. Berg & Co.", and which was adopted. Now—

Mr. Mulholland:

That is objected to.

Mr. Davenport:

What is?

Mr. Mulholland:
That line of question. 5305
The Court:
Wait a moment, finish the question.
Mr. Davenport:
Having been adopted as stated here by the American Federation of Labor at that Convention in 1899, isn't that a declaration of a compound or secondary boycott against both the dealers in Loewe's hats—
Mr. Mulholland:
Object to the form of the question.
Mr. Davenport:
And against Mr. Loewe or such concerns? 5306
Mr. Mulholland:
I desire to object to the question if the court please.
The Court:
He may answer.
Mr. Mulholland:
Exception.
A. No, sir.

Q. What more effective step could be taken; at this time in 1899 what was the membership of the American Federation of Labor? A. Well I think about a million two hundred thousand. I can't give that absolutely. 5307

Q. And adults, male? A. Oh, they are all adults.

Q. And males mostly; heads of families? A. More so than now even; proportionately more then than now.

Q. And heads of families many of them? A. Yes, in the usual proportion, among men.

Q. Well, what more could be done in the way of declaring a boycott by the use of that language and that formal action at that convention; would it be just as effective as if the thing was stuck in a little list in the back part of the American Federationist? A. Do you want me to reply; is that question? 5308

Q. Sure, that is what I asked it for? A. Why, it is absolutely ineffective unless it specifies the firm or the product that is not to be patronized, because there is nothing that attracts people's attention.

Q. So far as the resolution is concerned; but Mr. Moffitt can go right out to California, or send his agent out there, and have the San Francisco Labor Council pass a resolution and issue a notice to everybody on the Pacific Coast who had already been familiar with the operations in regard to Berg

5309 and Roelofs that said it was on the unfair list of the American Federation of Labor; wouldn't it become very effective when these agents took hold of it; wouldn't it? A. I don't know how they used it.

Witness excused.

Witness,

JAMES O'CONNELL.

Sworn by Mr. Davenport:

5310 EXAMINED

By Mr. Mulholland:

Q. Please state your name in full? A. James O'Connell.

Q. Where do you reside, Mr. O'Connell? A. Washington, D. C.

Q. How long have you lived in the City of Washington?

The Court:

Now, Mr. Mulholland, the clerk is here; give him that name.

5311 Mr. Mulholland:

James O'Connell.

The Court:

And his residence is where?

Mr. Mulholland:

Washington, D. C.

Q. Mr. O'Connell, you for a number of years have been President of the International Association of Machinists.

Q. And you were President of that organization in the years 1902 and 1903? A. Yes, sir.

Q. And member of that organization? A. Yes, sir.

5312 Q. I will ask you whether or not during the years 1902 and 1903 the United Hatters of North America or any of its agents or officers requested you to endorse a boycott on the goods of D. E. Loewe & Co. or to take any other action against the products of the factory of D. E. Loewe & Co.? A. No, sir.

Q. What, if any, Board of Control have you exercising authority in your organization between Conventions? A. The Executive Board of the International Association of Machinists is the authority between the Conventions.

Q. And as President of that Organization state whether **5313**
or not you were also President of that Board? A. Chairman of the Board; yes, sir.

Q. During the years 1902 and 1903 did you attend such meetings of that Executive Board as were held? A. All of them.

Q. And presided as presiding officer? A. Yes, sir.

Q. I wish you would tell the jury whether or not during that period of time the United Hatters or any of its officers or any other persons requested that Board to take any action whatsoever in reference to D. E. Loewe or the products of the firm of D. E. Loewe & Co. of Danbury, Conn.? A. **5314**
No, sir; no action whatever or request.

Q. I believe that you are also Third Vice-President of the American Federation of Labor? A. Yes, sir

Q. And did you hold such office in the years 1902 and 1903? A. Yes, sir.

Q. As Third Vice-President of the American Federation of Labor, were you during that period of time a member of the General Executive Council of the American Federation of Labor? A. Yes, sir.

Q. And I wish you would state whether or not during the years 1902 and 1903 you attended the meetings of the **5315**
Executive Council of the American Federation of Labor? A. Yes, sir; all of them.

Q. And you may state to the jury whether or not the United Hatters of North America, or any of its officers or agents, or any other persons during that period of time made any application to the Executive Council of the American Federation of Labor to take any action whatsoever in reference to the products of the factory of D. E. Loewe & Co. of Danbury, Conn.? A. None whatever so far as I know.

Q. I wish you would state to the jury whether or not the name of D. E. Loewe & Co. of Danbury, Conn., was dur-
ing the year 1902, and up until October 1st, 1903, ever pub- **5316**
lished on any unfair list "we don't patronize" list or "boycott" list in the journal of the International Association of Machinists? A. Not to my knowledge.

Mr. Mulholland:

You may take the witness, Mr. Davenport.

5317

CROSS EXAMINATION

By Mr. Davenport:

Q. When did you become a Vice-President of the American Federation of Labor? A. 1895.

Q. So that for the last seventeen years you have been a member of the Executive Council of the American Federation of Labor? A. Yes, sir.

Q. During that time has the American Federation of Labor been very busy in declaring boycotts? A. Not ex-

5318 ceptionally so.

Q. Not exceptionally so; do you mean it is a regular thing? A. No.

Q. About how many declarations of boycotts could you estimate— A. (Interrupting) In the last seventeen years.

Q. In the last seventeen years the American Federation of Labor has declared? A. Approximately two hundred.

Q. Possibly two hundred? A. Approximately.

Q. Approximately. Well, more or less? A. Might be more, might be less; I haven't the slightest idea.

Q. That is it? A. Running over it. I am giving a

5319 rough estimate.

Q. A rough estimate? A. Yes.

Q. Well, that is considerable of an activity in the line of boycotting, isn't it? A. As compared to the number of concerns doing business in the United States, I should say no.

Q. No; but as boycotting? A. No, I should consider it very mild in accordance with the opportunities.

Q. Those that have escaped are very largely different from those that have been attacked? A. Very largely so because we are not encumbered with a large

5320 number of hat employers in the United States.

Q. And anybody like Mr. Loewe, for instance, would come under the category of a bad employer I suppose because he would not unionize his factory and discharge his non union employes upon the demand of a labor union? A. I don't know. I never heard of Mr. Loewe 'till then.

Q. Well you heard of him since the middle of September? A. Yes, I heard of him since you have been handling the case a great deal.

Q. Yes, sir. You say you never heard of any boy- **5321**
cott against him in September, 1903. Did you receive by registered mail a copy of the complaint of D. E. Loewe & Co. in this action for carrying on a boycott against his property—his goods—his business? A. The state case?

Q. The state case? A. Yes.

Q. Did you read it at that time? A. No.

Q. Did you glance at it? A. Possibly; these things are so frequently done to us and put upon us that we usually—

Q. (Interrupting) It didn't make any impression on an ancient and veteran boycotter? A. No, because **5322**
we know the lawyers who make a business of getting them out.

Q. Now were you present at a meeting of the Executive Council in September, 1903? A. The Executive Council?

Q. Yes, sir? A. I think it is likely, but I ain't sure, I have been a pretty regular attendant.

Q. Yes, September 21st to 25th, Mitchell, O'Connell, Morris, Kidd, Gompers, Duncan, Hayes, Lennon and Morrison. Now at that meeting did John Moffit and
Patrick Connolley, one of these defendants here, appear **5323**
before the Board? A. I don't recall the fact, but the record said that they did.

Q. You don't recall the fact? A. No.

Q. But they had a copy of the complaints with them, didn't they? A. Of what complaint?

Q. That in the State Court? A. Oh, they may have. I don't know.

Q. Now, I will ask you whether at that time you knew that it was charged that you and your Associates in the American Federation of Labor had been participating in the boycott? A. Yes, but that didn't make it so. **5324**

Q. Yes, but you knew it was? A. That it was the charge.

Q. And you learned by that that these men had sent circulars throughout the length and breadth of this country. Now did you attempt to take any means to disavow that? A. That I was?

Q. Yes? A. I didn't; because I wasn't.

5325 Q. Because you wasn't? A. No. There was no occasion for me to take steps to undo something I wasn't doing to another.

Q. You knew these men were injuring this man's property and business? A. Not to my knowledge.

Q. You heard such statement; wasn't it stated in the complaint? A. That I was doing it?

Q. Yes? A. But I wasn't.

Q. You were not? A. Therefore I knew I wasn't. I had no reason to suppose others were doing it.

5326 Q. Why didn't you, if you knew it was being said that you had been injuring this property, and you had no part in it, you and your colleagues, why didn't you announce this that Moffitt and the rest of them were lying to the others? A. Come out publicly and make announcements?

Q. Yes? A. Spend my personal money to make an announcement to somebody that I didn't know?

Q. So that the public might understand that it wasn't you? A. That I wasn't boycotting?

Q. Yes, you and your colleagues? A. Why should

5327 I make announcement of it that I wasn't boycotting. I wasn't doing any harm to him, and he wasn't doing me any harm.

Q. It would be the most natural thing in the world? A. That I would spend my money to tell the public that I wasn't boycotting Mr. Loewe? I would have to have lots of money to spend to do a thing like that.

Q. It would seem natural for a person whose name had been misused to the advantage of another, if it wasn't true; the inference would be that if you didn't do that you were responsible for it? A. Oh, no. Oh, no.

5328 Q. Well, you didn't do anything? A. Well, Mr. Loewe couldn't say that I had done him personally any damage.

Q. You didn't do anything? A. No, sir, I didn't.

Q. Well, now, Mr. John Moffitt, of these defendants here issued this circular "San Francisco, July 14th, 1903. Gentlemen, we beg to call your attention to the following products which are on the unfair list of the American Federation of Labor. We do this in order that you may refrain from handling these goods as the patronage of the firms named below is taken by the organized workers as

an intention of a desire to patronize those who are op- 5329
posed to the interests of organized labor. The declaration of unfairness regarding the firms mentioned is fully sanctioned and will be supported in the fullest degree by the San Francisco Labor Council. Trusting that you will be able to avoid the handling of these goods in the future, we are yours respectfully, San Francisco Labor Council." On the unfair list are D. E. Loewe & Co., Danbury Co., and Triest & Co., 116 Sansome Street, San Francisco, hat manufacturers. That was set up in the complaint served upon you, was it not? A. I don't know. It probably was. I didn't read it.

5330

Q. You say you didn't read it? A. No.

Q. Well why not? A. Why not?

Q. Why didn't you read this extraordinary document sent to you? A. Suing me for two hundred and forty—a large sum of money.

Q. And trying enjoin you? A. Why it seemed to me a joke, a huge joke; a huge joke to sue me for $240,000.

Q. Any trying to enjoin you was another joke? A. They didn't need to enjoin me because I wasn't doing anything.

5331

Q. The petition in the state court attempted service on you so as to enjoin you from doing this. Well, Mr. O'Connell, did you state that when these defendants in order to injure this property circulated that document that it was a false document, as well as an injurious one? A. I haven't the slightest idea.

Q. Well, admit it was false when they say it was on the unfair list? A. I didn't say it was false; I didn't say anything about the document.

Q. You say it wasn't on the unfair list? A. The firm wasn't and never was there.

5332

Q. I am reading to call it to your attention? A. What are you reading?

Q. The San Francisco Labor Council? A. You are talking about me and the officers of the American Federation of Labor.

Q. The statement contained in this circular is "We beg leave to call your attention to the following products which are on the unfair list of the American Federation of Labor?

5333 Q. If I understand you, your statement is that this is an untrue statement? A. I don't know anything about that statement; that circular.

Q. It is in the complaint? A. I simply say the American Federation of Labor never placed the Loewe Hat Co. on the unfair list.

Q. You mean in the Federationist? A. I am speaking as an officer of the American Federation of Labor.

Q. In the Federationist? A. The American Federation of Labor. The American Federationist don't place things on the unfair list.

5334 Q. No, I say the list in the Federationist? A. That was recognized; in the list officially in a lot of different lines; they never done that.

Q. You know John Moffitt, don't you? A. Yes, sir.

Q. One of your Legislative Committee? A. He was during the last term of Congress. That is all.

Q. Well, has he got through? A. Yes, sir.

Q. Is he in the employ of the American Federation of Labor? A. Only that time.

5335 Q. Until the close? A. Until the close of Congress.

Q. And from there he went to his home at Mount Claire, N. J.? A. I don't know.

The Court:

Q. Until when? A. Until the close of the last session of Congress. He was only employed during the Legislative Committee; during the last session of Congress.

Q. Was he the head of the Committee? A. No, sir.

Q. Who is the head of it; Arthur Holder? A. Mr. Holder was recognized as Chairman of the Committee.

5336 Q. Do you know James P. Maher? A. Yes, sir.

Q. And he is a member of Congress? A. Yes, sir.

Q. Well, I won't go into that subject. Mr. Moffitt made this statement, which he published broadcast, as we charge in our complaint, for the purpose of injuring these plaintiffs: "Upon the direction of your General Executive Committee your President attended the Convention of the Federation at Scranton, and with the assistance of our delegates had that body pass this resolution:

"Whereas the United Hatters of North America are 5337
at the present time engaged in a strike of large proportions at the factory of Henry H. Roelofs & Co., Philadelphia, for the recognition of their union and union conditions; and

"Whereas it is of vital importance not only to the Hatters' Organization, but also to organized labor in general that the United Hatters of North America should be victorious in the fight which they are making for the existence of their union, and

"Whereas the United Hatters of North America have never refused to give assistance financial or other- 5338
wise to their brethren who have asked it; therefore be it

"Resolved that this convention endorses and approves of the course pursued by the United Hatters of North America in their present fight against the wealthy concern that has declared it will never recognize any labor union;

"Resolved that we call upon all the international, national and local unions affiliated with the American Federation of Labor to give all the assistance possible to the United Hatters of North America in the unequal fight which they are at present so manfully making against 5339
wrong and oppression; and we hereby pledge ourselves not to patronize any dealer or dealers who handle the product of non-union hatters, and more especially the product of the firm of Henry H. Roelofs & Co. of Philadelphia, Pa."

"The adoption of this resolution was followed up by the action of the convention in declaring a general boycott upon the product of Roelofs' factory. The effect of this action was almost immediately apparent. Throughout the country similar action was taken by local trades councils and it is not too much to say that the final set- 5340
tlement of the strike would have been much more difficult but for the co-operation and assistance thus secured." Now, Mr. O'Connell, if the convention took that action, was it not a declaration of a boycott against the non-union hatters? A. No, indeed.

Q. What more could be done in the way of what I called just a moment ago a trumpet call. "We call upon all the international, national and local unions affiliated with the American Federation of Labor not to patronize

5341 any dealer or dealers who handle the product of non-union hatters." What more would be possible to be done by that great organization of a million six hundred thousand, men against this one poor concern in Danbury. What more could be done in Philadelphia, or this concern in Danbury than was done then and there? A. You ask me to answer what?

Q. That question? A. What more could be done?

Q. Yes? A. Why, specify the name of any institution they wanted boycotted.

5342 Q. What difference would it make? A. It would make all the difference in the world; that would have made it a boycott.

Q. Well, what was this? A. That was advertising; and you know something about advertising.

Q. Do you mean that that is advertising the union label? A. No, I don't—in a way yes; and I think probably advertising business.

Q. What? A. Official.

Q. Well, now, how many locals did you have in the Machinists Union at that time? A. About six hundred, I should say.

5343 Q. And the machinists locals are generally in cities and larger places, aren't they? A. Oh they are scattered everywhere.

Q. Yes, but they are in places where there are central labor unions usually, are they not? A. You will find them where you will find unions of any crafts and trades; there is no specific place in which machinists are located.

Q. But as a general thing now, Mr. O'Connell, the locals of the Machinists Union are in places where there are central labor unions, are they not? A. As a general proposition you will find them where they are not either, because they are pioneers; occasionally, but as a general proposition I couldn't state because there are not central bodies in the United States in keeping with the number of cities.

5344

Q. Well, there are how many of them? A. I should judge a hundred and fifty central bodies. At that time probably about a hundred.

Q. It is stated and proven that there are over five hundred of them? A. At that time?

Q. Over five hundred of them at that time?

Q. Now then, were you at that convention of 1901 at Scranton? A. Yes, sir. 5345

Q. And one of the Executive Council? A. Yes, sir.

Q. You went, of course, as a delegate from the International union? A. Machinists; yes, sir.

Q. You can't be a member unless you are a delegate, can you? A. Oh, yes.

Q. From some union; you have got to be a member of some union. A delegate sent there, haven't you, from a union? A. To be a member of the convention?

Q. Yes? A. Oh, yes. I thought you asked if it was necessary; it isn't necessary to be a delegate to be an officer of the Federation. 5346

Q. If you don't happen to be chosen as a delegate you are still there as a member of the Executive Council until the following Convention, are you not? A. You are elected to that following along.

Q. Now, I am going to read from a report of the Defendant William P. Daley, who was a delegate from the United Hatters of North America and who is reporting to his fellow defendants here now what took place. I find this on page 22 in the second column "The Convention also passed a resolution endorsing the boycott of the United Hatters against the unfair firm of H. H. Roelofs & Co. of Philadelphia." Now have you any recollection that they didn't pass that resolution? A. No. 5347

Q. You are not one who can testify that they did not pass the resolution as Mr. Moffitt said and as Mr. Bailey said? A. No; there might have been an error.

Q. Well, was Mr. Moffitt there, do you remember? A. At the Convention, I don't recall. Possibly he was. He has been a very regular attended for a number of years.

Q. Now there is a great amount of testimony in this case that the city central labor unions of certain sections of the country endorsed a boycott against Mr. Loewe and against his customers in some instances, and it was prosecuted very vigorously; now are you able to testify here that the members of the locals of your organization—the Machinists organization—did not participate in that boycott? A. No, that would be impossible to say what a man will do; what an individual member might do. 5348

5249 Q. And what the locals did? A. Not so impossible in that case.

Q. Well, have you any knowledge about it? A. No.

Q. So that you can't testify that members of your organization did not participate in this warfare upon this Danbury concern? A. No, any more than it would be possible for any person to prove that others did it to them. It is an impossible thing.

Q. Yes. Well, now, I understand you to say that your locals affiliated with the various central labor bodies? A. As a general proposition; not in—

5350 Q. I mean state federations of labor? A. Not usually.

Q. Well now, I want to direct your attention to a specific statement in this complaint to which this testimony is directed, I suppose: "To carry out said combination, and to procure and cause others of said combinations united with them in said American Federation of Labor in like manner to declare a boycott against and to actively boycott the same and the business of such wholesale dealers as should buy or sell them, and of those who should purchase them from such wholesale dealers; to intimidate 5351 such wholesale dealers in purchasing or dealing in the hats of the plaintiffs by informing them that the American Federation of Labor had declared a boycott against the products of the plaintiffs and against dealers who should handle it, and that the same was to be actively pressed against them, and by distributing circulars containing notices that such dealers and their customers were to be boycotted." Now I understand your testimony was that so far as your international organization is concerned yours was not one of the combination? A. And the American Federation of Labor included?

5352 Q. It didn't state the American Federation of Labor, did it? A. No; but I say as far as my testimony is concerned—you asked.

Q. That is a complete body? A. You can't speak of it in any other sense.

Q. Now, Mr. O'Connell, were you subpoenaed to attend here? A. Through counsel the other day, yes, sir.

Q. You were notified to appear; were you subpoenaed; you came here voluntarily, did you? A. Voluntarily, yes. 5353

Witness excused.

CROSS EXAMINATION OF HENRY J. CONWAY.

Resumed by Mr. Davenport:

Q. About the time we finished our colloquy, Mr. Conway, we were struggling over the definition of what a boycott was and you referred me to Webster's Dictionary, and I said Mr. Loewe knew what a boycott was. I want to read you this and see whether or not; and see whether in this workaday labor world it is not desription of a boycott. This is from the report of the Committee on Boycotts, which was adopted by the Convention: "We must recognize the fact: "We must recognize the fact that a boycott means war; and to successfully carry on a war we must adopt the tactics that history has shown are most successful in war. The greatest master of war said that war was the trade of a barbarian and the secret of success was to concentrate all your forces upon one point of the enemy—the weakest if possible. In view of these facts, the committee recommends that the State Federation and Central bodies lay aside minor grievances and concentrate their efforts and energies upon the least number of unfair parties or places in their jurisdiction—one would be preferable. If every available means at the command of the state Federation and central bodies were concentrated upon one such and kept up until successful, the next on the list would be more easily brought to terms and within a reasonable time none opposed to fair wages conditions or hours but would be brought to see the error of their ways and submit to the inevitable." Isn't that the definition of a boycott that is understood by the members of the American Federation of Labor? A. That was something possibly in the American Federation of Labor Convention. 5354 5355 5356

Q. Why that is the report of the Committee on Boycotts? A. At what Convention?

Q. 1905 and adopted by the Convention? A. I don't remember anything about it.

5357 Q. That is not the question whether you remember it. I asked you whether or not that is not a description of the boycott as understood by members of the American Federation of Labor; you are one of those, aren't you? As a practical thing, and as an everyday operation of boycotting and subduing and conquering recalcitrant forces, isn't that a good description of what the American Federation of Labor boycotts are intended to be? A. Not in my estimation.

5358 Q. Now will you tell us what sort of a ladylike performance you think it is? A. In the boycotting of a particular firm, may I ask?

Q. Yes, Loewe, for instance, would you call that inaugurating a boycott against Mr. Loewe? A. They were never boycotted, to my knowledge.

Q. Well, to your knowledge, I know. What do you consider boycotting Loewe or any other concern, what sort of a performance? A. For a justifiable cause?

Q. Any cause? A. Advising of the public.

Q. You don't consider the sending of your local central union to visit the customers and threaten them

5359 with a boycott if they continue to trade with him— A. (Interrupting) I have no knowledge.

Q. I know you have no knowledge, but would you consider that a boycott? A. I couldn't answer without having more knowledge of the specific case.

Q. Well, I am going to ask you something a little more pertinent. Mr. Conway, you stated last night that in 1903 the membership of your union was— A. (Interrupting) About sixty thousand.

Q. Sixty thousand; that is ten years ago? A. About.

5360 Q. Now the population of the United States at that time was about seventy two millions by the census so that there was one clerk member of your union for every twelve hundred persons in the United States, if half of them were children there would be clerk for each three hundred men and three hundred women? A. You mean clerks unorganized?

Q. In this organization? A. Well, I haven't prorated the figures.

Q. Well, it is very easily calculated, sixty thousand into seventy two millions? A. Possibly would figure close to that. 5361

Q. Well, now you had then picketed upon the retail trade of this country at that time one clerk for each three hundred men and three hundred women prospective retail customers? A. No, that wouldn't be the ratio, if there were seventy two million people and we had sixty thousand; it would rather be one in twelve hundred, wouldn't it?

Q. I say if one half the twelve hundred were children and the other half men and women it would be one picket on duty in the retail stores of this country for every three hundred male customers and three hundred female customers, would it not? A. No, six hundred of each, about. 5362

Q. We take out half of them as children? A. Children do a good deal of purchasing today.

Q. Well, if we exclude the children. Well, have you got a copy of your constitution with you? A. No, sir, I haven't.

Q. Do you know whether there is one in town? A. One can be gotten very easily.

Q. Well I would like to see it; I would like to have it produced? A. I can have it sent to you. 5363

Q. Well, that will answer every purpose. Was it part of the duty of a member of that union who was a clerk in a store to give information to the representatives of other unions as to what kind of goods his employer was carrying? A. No, sir.

Q. He would be in a situation where he could do it? A. Do it whether he was organized or unorganized.

Q. Yes, but if he was organized he would be in a situation where he could do it if he wanted to? A. Yes, or no. 5364

Q. You lived in Lafayette, Ind. all the while? A. Oh, no; just for a little over a year.

Q. Where were you before that? A. In Denver, Colo. That was my headquarters.

Q. Along with Max Morris? A. No, he lived there then.

5365 Q. He lived there? A. Our headquarters was in Denver, Colo. When he died I succeeded him three years ago last June.

Q. But in 1902 and preceding that where were you? A. Either in Chicago or St. Louis.

Q. You spoke of being general organizer? A. Yes, sir.

Q. And as such did you travel about the country a good deal? A. Yes, sir.

Q. Advancing the cause of your union? A. Organization.

5366 Q. And in inducing clerks to organize? A. Yes, sir.

Q. And become affiliated— A. With our organization.

Q. With your organization? A. Yes, sir.

Q. And you enlisted the active support of the organizers of the American Federation of Labor, did you not? A. I did not.

Q. I want to read you now a report made to these defendants by one of their agents from Omaha dated March 10th, 1903, addressed to Mr. John A. Moffitt: "The

5367 retail clerks are well organized in Omaha, and some of the members gave me some information I very much desired. If there is one union that our organization should support more than another it is the Retail Clerks' Union. They are in a position to do more for our label than the others, because they can sell a union hat whether the customer asks for it or not; and by doing this the union hat manufacturer gets the benefit of the duplicate order. I was glad to see our label advertised in the Retail Clerks' International Advocate. It certainly speaks well for the

5368 judgment of our Executive Board, for I believe that an ad. well placed is worth its space in gold." Now, Mr. Conway, it has appeared here in testimony that the agents of these defendants in the State of California, the State of Oregon and the State of Washington did possess information as to the shipment of goods from Triest & Co. to their retail customers throughout the Pacific Coast; are you willing to state that the members of the Retail Clerks' Unions who were in the central labor unions of those states and in the state federations did not furnish that information? A. I am. They did not.

Q. How do you know? A. Because that informa- 5369
tion can be obtained very easily.

Q. And how do you know they didn't do it? A. If there was anything of that kind occurred more than local some information would come to us of the individual or individuals who done it.

Q. How? A. By organizers talking to one another.

Q. You mean they would report to you? A. Just the same as you and I would talk.

Q. Well, do they make reports? A. Not necessar- 5370
ily; suppose I met you on the street and you said to me "Mr. Conway, such and such a thing occured down here on High Street," naturally if I met this gentleman over here and that information had come he would say I received it through Mr. Davenport, or Mr. Conway or the Retail Clerks; but it is a wellknown fact that your bank account today you know, is known.

Q. If you didn't happen to meet me you wouldn't hear it? A. Well, generally you find that all over the United States when you meet one another.

Q. Now let's get right down to the point of this 5371
thing. Are you able to state of your own knowledge that the Retail Clerk's Local Unions in the various states and cities like Richmond, Va. and San Francisco, Calif., and Seattle and Tacoma, who were in a situation to do it, did not furnish that information to Mr. Hennelly and Mr. Kelly, Mr. Kelly being one of the defendants here? A. To the best of my belief, yes, sir.

Q. Well, are you able to say it of your own knowledge? A. From my personal experience as a salesman on the floor, yes, sir.

Q. Well, I will ask this question; whether or not 5372
you can state that the sixty thousand members of your union in the various locals attached to the city central labor unions and the state Federations of Labor which declared boycotts against Mr. Loewe and against Triest & Co. and Stokes & Co. in Richmond, did not participate in the boycotts against them? A. Our organization did not, to my knowledge.

Q. You mean your national organization? A. Yes, sir.

5373 Q. You are not able to state anything about the local unions? A. It would be impossible to state the individuals.

Recess until two o'clock.

Afternoon Session.

Tuesday, September 24, 1912.

WILLIAM V. NOWLAN,

Sworn by Mr. Davenport.

5374 EXAMINED

By Mr. Mulholland:

Mr. Mulholland:

If the Court please, this is William V. Nowlan.

The Witness:

47 Austin Street.

Q. Your name is William V. Nowlan? A. Yes, sir.

Q. You reside at, I believe, 47 Austin Street in Danbury? A. Yes, sir.

Q. You are a defendant in this action? A. Yes, sir.

Q. How old are you Mr. Nowlan? A. I am going on
5375 63, a little over 62 years old.

Q. Are you a member of the United Hatters of North America? A. Yes, sir.

Q. And of what branch of the organization as to Finishing or Makers? A. Maker.

Q. Then you belong to the Danbury Makers Union? A. 10. Yes, sir.

Q. Local No. 10? A. Yes, sir.

Q. How long have you been affiliated with the Finishers Union? A. Since the consolidation, I don't remember the date. I went in with the rest of them.

5376 Q. When did you first join any organization of hat makers? A. I got my card in 1869, July 19, 1869.

Q. And have you worked at the hatters trade from that time up until now? A. Yes, sir.

Q. Are you still working at the trade? A. Yes, sir.

Q. Mr. Nowlan have you ever held office with your Local Union or International? A. No, sir.

Q. Have you ever been a delegate to any of the conventions of your organization? A. No, sir.

Q. Have you ever been a delegate to any convention of the American Federation of Labor? A. No, sir. **5377**

Q. Are you familiar with the publication known as the Federationist? A. I never saw but one or two of them, I never read one of them.

Q. Where and when did you ever see one? A. I saw one with a man, he handed it to me, I just glanced at it and handed it back to him.

Q. Can you say when that was? A. Well, it was about 6 months ago I think.

Q. About 6 months ago? A. That is all.

Q. Prior to the commencement of this action, say prior to Oct. 1st, 1903, had you ever seen a copy of the Federationist? A. No, sir. **5378**

Q. Are you acquainted with Mr. Loewe? A. Yes, sir.

Q. What? A. Yes, sir.

Q. A personal acquaintance? A. Well, we used to belong to an organization together when we were younger.

Q. Then you know him personally? A. I know him.

Q. Do you remember of some trouble occurring in D. E. Loewe's plant in Danbury in July, 1902? A. Well, I remember hearing of it, yes; I was not in the district at that time.

Q. Where were you at that time? A. I was in Bethel, my card was out of the Danbury district at that time. **5379**

Q. Fixing the time when the strike occurred, how long was it after the strike occurred that you first heard there was trouble in the Loewe plant? A. Well, I guess I heard it a day or two after it occurred, I don't remember.

Q. Do you know where you were when you heard it? A. In Bethel, working, some of the "Jours."

Q. Jours, that is what you call the Journeymen Hatters? A. Yes, sir.

Q. Did you ever work for Mr. Loewe? A. No, sir.

Q. Have you ever been in his plant? A. Never. **5380**

Q. Well prior to the strike which you heard of in the Loewe factory, had you ever heard in any way that the officers or agents of the United Hatters organization were engaged in conducting any boycotts outside of the state of Connecticut? A. Never heard of it in my life, never knew of their doing anything of that kind.

Q. You, I understand, are 63 years old? A. Well, very near it, yes, sir.

5381 Q. Then you belong to that honorary membership—A. Well, we don't rate them as finishers, as this man testified this man belonged to the finishers and they have got an honorary roll in Bethel. My card is in Bethel, and they don't rate them that way in Bethel.

Q. They don't rate the makers local in Bethel in that way? A. No, sir. Both locals exempt them from local dues, but they don't rate them on meetings at all. There is no fine for non-attendance.

Q. At what age are you exempt from paying local dues? A. I think the book says, I won't be sure, but I think Bethel
5382 is sixty.

Q. Are you now paying local dues into the Bethel district? A. I never inquired into it, I paid the dues last week.

Q. Well, after you heard of the strike in the Loewe strike and up until say the first day of October, 1903, or up until the date that you were served in this case, had you any knowledge that special agents, or officers of the United Hatters organization were boycotting the product of Mr. Loewe's factory? A. No, I never paid any attention to it, I never knew anything about it.

Q. During the years 1902 and 1903, I wish you would
5383 state to the jury whether you were attending the meetings of your Local? A. In Bethel you don't have to attend the meetings.

Q. Whether you did attend the meetings? A. Well, I am going to explain it to you if I can. In Bethel you don't have to attend the meetings. I didn't come up home and come back to the meeting because I didn't have to, so I didn't attend any meetings. I don't remember.

Q. Can you tell the jury how often they hold meetings in Bethel? A. Every three months.

Q. That is 4 meetings a year? A. That is 4 meetings
5384 a year.

Q. Then up until the time you were served with a summons in this case, or in the other case, had you any knowledge that the agents or officers of the hat makers, or hatters organization were in any way molesting the products of the factory of Mr. Loewe? A. Not to my knowledge. No, I never heard anything about it, or paid any attention to it. I was not in the district and I didn't pay any attention to Loewe at all because I was not in the district.

Q. You say you are a defendant in this case? A. Yes, sir. 5385

Q. Your property is attached in this action? A. Yes sir.

Mr. Mulholland:

You may take the witness:

CROSS EXAMINED

By Mr. Merritt:

Q. You knew, Mr. Nowlan, did you not, shortly after the men were called out of the Loewe factory that they were called out for the purpose of unionizing the factory? A. 5386 Well, I suppose I heard of it, but I don't remember it, about them being called out, I didn't pay any attention to it. As I said I didn't pay any attention to the trouble at Loewe's at all because I was not in the district.

Q. Where were you at that time? A. Bethel.

Q. Living in Bethel? A. No, working in Bethel and living in Danbury.

Q. Were you a subscriber to the Danbury News? A. I never subscribed for it. I buy it.

Q. You read it regularly? A. I buy it regularly.

Q. You read it? A. Generally, yes, sir. 5387

Q. And were reading it, or did read it in 1902 and 1903? A. I suppose so. I always have it.

Q. Well, did you read this article in the Danbury News July 25th, 1902:

"After Loewe Factory."

It starts with that heading and says:

"The Hatters Union will attempt to unionize this plant.

"The United Hatters of North America has recently unionized several of the largest hat factories in the country have transferred its operations to Danbury, and announces its attention of unionizing the factory of D. E. Loewe & Co. 5388 President Moffitt, Vice President Lawlor and Treasurer Maher went to the factory and ordered all the union men employed there to quit work. The men did immediately as instructed, and the factory is now short handed in all departments."

Did you read that? A. I wouldn't want to swear I read that, I don't remember anything of that at all.

Q. You don't remember it? A. I don't remember it.

By the Court:

5389 Q. How far do you live from the factory? A. How far do I live from the factory, about a mile and a quarter probably.

By Mr. Merritt:

Q. Where did you trade? A. I didn't do much of the buying, my wife done all the buying. I came from the factory in Bethel, go right home and stay there, and go back in the morning. I don't do no buying. There is stores around my home where I live. The people done the buying.

The Court:

5390 Did you hear this strike talked about? A. Yes, sir, heard it talked of when we were working.

Q. You heard it talked of by the men whom you were working with? A. By the men whom I was working with, they would say such a thing is going on at Loewe's.

Q. That was in Bethel, you talked about it? A. Yes.

Q. You heard that they were attempting to unionize the plant? A. Yes, I did.

Q. Well, isn't it customary to discuss matters of the trade in factories where you have been working? A. Well when you have time. There is very seldom time in a hat shop a man hasn't got time to talk about that.

5391 Q. What is to hinder you. What about the lunch hour? A. There is no such thing.

Q. There is no such thing as a lunch hour? A. You eat when you are a mind to.

Q. Don't the men stop at noon? A. Some does and some don't, the men don't have to.

Q. Don't most factories have a rule about shutting down at lunch hour? A. Where we work with machinery they do, when the machinery stops they quit work.

Q. Is there a regular rule of your organization that there shall be a lunch hour at a certain hour? A. Not in

5392 Bethel, no, sir.

Q. There is in Danbury? A. Not that I know of.

Q. Ever heard of such a rule? A. There might be a shop rule, but I never heard of it.

Q. You never heard of any such rule in your organization? A. Not in the organization. There might be a shop rule.

Q. As I understand it, from your testimony, trade matters were discussed from time to time? A. Undoubtedly, yes sir.

Q. In shops where you worked? A. Yes. 5393

Q. Now I will ask you if you read this article from the Danbury News of July 20th:

"The Loewe Matter.

The United Hatters induce Non Union Men to leave the plant.

No agreement regarding the unionizing of the factory of D. E. Loewe & Co. has yet been arrived at between the firm and the United Hatters of North America. The Hatters Union is determined to unionize the factory and the firm announces that it will continue to do business as before. Yesterday the officers of the Hatters union removed all of the 5394 union men from the factory and several of the non union operatives. Today the officers went further and induced all of the non union men to leave. The officers decline to state under what conditions the men were induced to stop work. Today there are no men working in the factory."

Do you remember reading that? A. I don't remember hearing it, no.

Q. You say you were a regular reader of the Danbury News? A. Yes, but there is some things in it we don't read.

Q. All right, I will show you this article. A. There is some things that I would read. Now I wouldn't take any stock 5395 in that at all, I wouldn't read that.

Q. You wouldn't read that? A. I wouldn't read that, no. I would leave that to the officers to take care of. I wouldn't bother my head with it.

Q. You would not read it if you saw it in the paper? A. I would skip it over. I wouldn't read it.

Q. You would read the headlines? A. Yes, I might read the headlines.

Q. Where it says, "United Hatters induce non union men to leave the plant"? A. I might have heard somebody say they called them out. 5396

Q. You might have read it? A. Yes, I might have read it but I wouldn't swear that I read it.

Q. Here is the Danbury News for May 18, 1093, "Annual address of President Moffitt" which covered several columns and gives the practices of the organization, of which you are a member and which you were supporting; did you read that? A. No, sir, I did not read that. I will swear to that.

Q. You are willing to swear you did not read any of it? A. Not from Moffitt.

5397 Q. How long have you been a reader of the Danbury News? A. Ever since it was published.

Q. Well, I will ask you to go back to an article in 1900, and see if you ever read that.

"Advertising the Hat Label.

The United Hatters have spent $30,000 in two years for that purpose."

Does that sound familiar? A. Well, the financial part of it does.

Q. Then let us read the balance of it.

5398 Q. The Cleveland Ohio World, in an article regarding the United Hatters says:

A lesson can be learned by the labor unions of Cleveland by the work for the union label that is being done by the United Hatters of North America. A New Jersey concern recently refused to recognize the union, and ever since the organization has been carrying on a wonderful fight against the concern. So far the Hatters show every sign of whipping the employer, who is one of the largest manufacturers of soft hats in the country. They carry on quite a systematic fight, and one that is telling.

5399 The Union has perfected a secret service whereby we know just where every case of hats shippd out of the factory goes to, and keep it in sight until it arrives at its destination. Here the case is watched and if it goes to a jobber, every sale that he makes is watched and known. The organization has several agents out throughout the country who are fighting the firm.

Twice has one of our agents, Mr. Brady, been in Cleveland. He is here now. The first he was here he visited the Labor Organizations and told them of the fight and asked that none but hats with the union label be purchased. One of the jobbers to whom the New Jersey firm sold hats, is located in

5400 Cleveland and it was this fact that brought Mr. Brady here. He visited every dealer of hats in the city, some of the members of the Clerks union accompanied him. To these dealers Mr. Brady explained just what he wanted and expected. As a result of his work, a jobber last Wednesday signed an agreement last Wednesday with Mr. Brady to sell nothing but union hats in the future."

I will now skip several paragraphs and then go on.

"In this connection it can be stated that in two years this union has spent $30,000 for the purpose of advertising their label." 5401

Did you ever read that? A. I don't know.

Q. What? A. I don't think I ever read that, I don't remember reading any of that.

Q. Well, you don't remember, or are you sure you did not read it? A. I won't say sure. I wouldn't swear I did or did not. I don't know.

Q. That is 12 years ago. A. The $30,000 I looked up the $30,000 when they spend that much, but the rest of it I don't remember.

5402

Q. And the knowledge of how your union was spending the money? A. I wanted to look into the financial part of it.

Q. Take this question of the journal of the United Hatters did you ever read that? A. I never read two of them in my life. As I say I used to look at the finance part of it.

Q. Used to read the financial parts of it? A. That is all.

Q. That was the regular thing for you to read, the financial report? A. Well, when somebody mentioned it we would go and get one and refer to it, that is about all.

Q. Are you willing to swear you never saw the Hatters Journal? A. I am willing to swear I never read the Hatters Journal. 5403

Q. Outside of the financial report? A. That is all.

Q. You are willing to swear that in opening it for that, looking for the financial report, you never stopped to read anything else? A. That is all I read.

Q. Did you ever see the convention proceedings of the United Hatters of North America? A. Yes, I have seen the published reports of the convention.

Q. Read those? A. Very little of it.

Q. Did you ever read the president's report? A. No. 5404

Q. You were interested in the matters of the hatters trade? A. Not very much, no. I don't have to be, the officers take care of that.

Q. You are willing to leave it to them are you? A. I am willing, yes, sir, put in men in there, we think we can trust, and I am willing to leave it to them.

Q. And you put in men in whom you had confidence? A. Yes, sir.

5405 Q. And you continued them in office after this suit was started? A. Certainly.

Q. You still had confidence in them? A. Yes, sir.

Q. Satisfied with what they have done? A. And have yet. Yes, sir.

Q. You continued paying dues after this suit was started? A. Certainly.

Q. Never made any protest? A. Never.

Q. Against anything? A. Never.

Q. You were satisfied, and re-elected the same officers? A. Satisfied, yes, sir.

5406 Q. Ever see one of these warnings, Plaintiff's Exhibit 86? A. No.

Q. Let's see what was your address in 1902? A. 47 Austin Street.

Q. Well, is that your name in this directory, "William V. Nowlan, Hatter, house 47 Austin Street?" A. That is it.

Q. Referring to Plaintiff's Exhibit 112 for identification? A. Yes, sir.

Q. You are willing to swear you never received one of those? A. No, I won't swear, I did not get that, but I never remember seeing it.

5407 Q. You don't remember? A. I don't remember.

Q. Did you ever receive any circulars or letters from the union in regard to this suit? A. Not that I know of.

Q. Don't recall any? A. No, sir.

Q. Are you willing to swear you did not receive it? A. Yes, to the best of my recollection I never got any.

Q. What did you do to defend yourself in this suit? A. Nothing.

Q. Never did anything at all? A. No, never moved.

Q. Never signed any papers authorizing the employ-

5408 ment of counsel? A. I don't think I did, no, I never signed no papers, I never had any occasion to.

Q. You never received any letter or circular from the union concerning the defense of this suit? A. No.

Q. Or concerning the payment of the judgment in this suit? A. No. I had a man come and try to collect the judgment, a sheriff.

Q. There was a fellow come around and wanted to know if I would pay the $240,000 just once.

Q. Did you have any savings bank account attached? A. Yes, sir.

Q. Was that paid to you by the union? A. No. 5409

Q. Never received any money for it? A. Oh yes, they bought the book.

Q. That is, they paid you the face value of your savings bank deposit? A. Yes.

Q. And you turned over your book to them? A. I turned over my book to them.

Q. With whom did you carry on this transaction? A. I don't know whether it was our secretary or the finishers, I don't know whether it was Shalvoy, I don't know, one of the secretaries, I guess, done it.

Q. You testified at the previous trial? A. Yes, sir. 5410

Q. Were your expenses paid for coming up here and testifying in your own behalf? A. Yes, sir.

Q. And you say you never received any letter from the union relative to the defense of this suit? A. That is what I say, yes.

Q. How do you explain your failure to take any steps to defend yourself? A. Because I had men to do it for me.

Q. How did you know you had? A. Why, I thought I had.

Q. But you didn't know? A. Well, I thought I knew.

Q. Are you any relation to Mr. P. H. Connelly? A. 5411
Well, no, him and I married sisters.

Q. You are a sort of brother-in-law to him? A. Well, he is a brother-in-law. He is no relation to me.

Q. Now I am going to read from the Danbury Evening News of Sept. 14, and I want to see if this doesn't refresh your recollection concerning what was done in reference to the defense of this suit, as to whether you didn't receive a letter concerning the employment of counsel and so forth.

"Unions will fight.

National Hatting officials in consultation in New York today. 5412

Today the officers of the Local Hatters Societies and those members of the National Board of officers of the Hatters union that live in this city, are in New York City where a meeting of the national officers and their attorneys is being held. The meeting is on account of the action of D. E. Loewe & Co. of this city in bringing suit against the United Hatters of North America, and the American Federation of Labor. Notice of the suit and the attachment of the property of nearly 200 members of the two labor organizations in Danbury and

5413 vicinity, was a surprise to the trade officers, and little can as yet be learned from them regarding the steps the organization will take in the matter.

"The local officers were in New York City Saturday in consultation with the national officers on another matter and did not learn of the affair until they arrived in Danbury. The national officers of the Hatters Union did not learn of the attachments until informed by telephone from Danbury. It was first expected that the national hatting officers would come to Danbury today and make their headquarters here until definite action had been taken, but it has now been decided that they

5414 will remain in their headquarters in New York City and direct their side of the case from there.

An important announcement already made is that the United Hatters of North America will take up the cases of all members of its organization whose real estate or bank deposits have been attached, and that those attached will be put to no greater expense in the matter than any other member. Today each one of those attached received the letter and appended blank for reply that appears below. They were sent out by P. H. Connelly, secretary of the Danbury Hat Makers Asso-

5415 ciation and Secretary of the Connecticut State Branch of the American Federation of Labor."

Now I will read Mr. Connelly's letter as it appears here and see if you don't want to change your testimony and recall receiving some such letter. It states that it went to all the members who were attached.

"Danbury, Conn., Sept. 14th, 1903.

Dear Sir: You are named as one of the defendants in the two suits brought by D. E. Loewe & Co. against the United Hatters of North America and other parties.

The United Hatters of North America are going to de-

5416 fend anyway in their own name both of the suits; but unless each individual member who is sued also enters an appearance judgment will go against him any way by default.

The United Hatters of North America, however, are willing to enter an appearance for each individual who has been sued individually, and pay all expenses of such defense, and save such individual from all liability from either of the suits, provided such individual authorizes in writing such appearance to be made for him.

The United Hatters of North America will also at their own expense apply for, and, if possible, obtain releases from

attachments of the private property of any individual defend- 5417
ant whose defense they undertake.

If you desire to save yourself any further expense, please sign the annexed paper and return in the enclosed stamped envelope by return mail. If you had any deposit in any bank which you think may have been attached, please write the amount, and the correct name of the bank where it is deposited, so we can apply for its release.

Our reason for asking this is that the attachment papers of D. E. Loewe & Co. are drawn so blindly that it is impossible to tell whose bank deposit has been actually attached without going to the banks and running through two hundred names, 5418
or else getting the name from each defendant, and it is quicker to get it direct from each defendant.

Yours truly,
The United Hatters of North America,
By P. H. Connelly."

Now I will read the letter that was attached for each individual defendant to sign as an authorization.

"Danbury, Bethel, Norwalk, Sept. 14, 1903.
Mr. P. H. Connelly, Secretary, and the United Hatters of North America.

(You see it is addressed to the local and the international 5419
organization.)

"My Dear Sir: I have read your letter of this date, and I hereby authorize you to have counsel enter an appearance for me in my name in each of the two suits recently brought by D. E. Loewe & Co. against me and others, one returnable to the Superior Court, Fairfield County, State of Connecticut, and the other to the United States Circuit Court, District of Connecticut.

And I further authorize and empower you to conduct my defense to final judgment and through as many courts as you or the counsel whom you employ deem proper, and to do both 5420
before and after the return dates in each of the suits, all things you or your counsel think proper.

But, upon the express understanding that I am not to be put to any expense for such defense, or for the payment of any judgment. Yours truly."

Then is left the blank for signature, and then a blank to fill out the amount you had attached.

Now I will ask you after hearing that letter, which is in the form of a contract between you and your organization,

5421 that you shall not be held liable for any judgment in this suit, or for any cost or defense, or have any cost of defense whether or not you did not have such a written arrangement with your organization?

Mr. Mulholland:

That question is objected to, because it states a conclusion of the examiner as to what the contract contained.

The Court:

He may answer.

Exception taken by the defendant.

5422 Q. Did you understand the question? A. Well no, I have lost it.

Q. Well, we will have the stenographer repeat it?

(Question repeated by the stenographer.)

The Witness:

I don't remember anything at all about that, at all, what you have read. I don't remember ever reading or signing any such thing at all, I never remember of seeing it or reading it before.

The Court:

If you did you have forgotten?

Witness:

5423 If I have ever seen it, I have forgotten it. I can't call to mind a word of that. I am pretty sure I signed no papers.

Q. What I want to get at is, you did testify you had not received any such circulars and as I remember Mr. Connelly testified that he sent out the circulars and received them from practically every person. Are you willing to testify you did not receive such a one, or simply that you do not remember? A. Well, just as I said, I don't remember ever hearing a word of it, I don't remember reading that or reading a word of it before. That is news to me, that whole thing.

5424 Q. Do you remember reading that warning in the Danbury News? A. No, I don't remember reading that.

Q. Do you remember hearing the men you were working with talking about the issuance of those warnings? A. No.

Q. Did I understand you have been a member of the Bethel Association? A. If my card was put out in the Bethel district I haven't got a voice to vote in the Danbury Local.

Q. Then you had a voice in the Bethel district? A. Yes.

Q. Then was that the situation in 1902 and 1903? A. 5425
It has always been so.

Q. Did you attend any meetings in 1902 and '03? A. Not in Bethel, no, sir.

Q. Where? A. No wheres. I had no business in the Danbury meeting and I never went to Bethel.

Q. Did you attend any meetings in 1900? A. Not if I was in Bethel in 1900, and I think I was.

Q. You think you were? A. I think I were, I was there 10 years in Bethel.

Q. How about 1901? A. Well, I ain't no almanac and I couldn't keep track of it all. 5426

Q. Can you tell? A. No, I can't. I have got a book home where I keep account of my work, and where I keep day and date. I ain't no Middlebrooks Almanac.

RE-DIRECT EXAMINATION

By Mr. Mulholland:

Q. I understand the reason you did not attend the meeting in Danbury you worked in Bethel? A. If you take a card out in your district—

Q. Is that true that you were working in Bethel and 5427
living in Danbury? A. That is true, yes.

Q. So you didn't go to Bethel? A. No, I would have to come home to supper and go right back to Bethel and back again in order to attend those meetings.

A. I see.

WILLIAM S. DUTCHER,

Sworn by Mr. Davenport.

EXAMINED 5428

By Mr. Mulholland:

Mr. Mulholland:

This is William Dutcher of Danbury, your Honor.

Q. Your full name, is William Dutcher? A. William S. Dutcher.

Q. Where do you live? A. In Danbury, No. 30 Lincoln Avenue.

Q. How long have you lived in Danbury, Mr. Dutcher? A. I think about 18 years.

5429 Q. You are a defendant in this case? A. Yes, sir.
Q. And what is your age? A. Fifty-two.
Q. Now Mr. Dutcher, I wish you would tell the jury when you joined the Hatters Union? A. I joined it I think in December, 1902.
Q. That was 1902? A. That was 1902, yes, sir.
The Court:
Did he give the month?
Mr. Mulholland:
December, 1902.
5430 Q. That was 5 months then after the strike occurred in Mr. Loewe's plant? A. Yes, sir.
Q. Where were you working during the year 1902? A. I was working at T. C. Millard & Co.
Q. Were you working there at the time you joined the union in December, 1902? A. Yes, sir, I applied for a card there.
Q. Prior to that time had you ever been affiliated with the Hatters Union? A. No, sir.
Q. Either with the union of Makers or Finishers? A. No, sir.
5431 Q. At the time this trouble occurred at Mr. Loewe's, did you hear of it? A. Yes, sir.
Q. Can you tell the jury how you happened to hear of it? A. Why just through the people around about the streets speaking about it, I heard of it.
Q. Now in December following this trouble at Loewe's when you joined the union, did you attend the meetings of your union? A. I did after, yes, sir.
Q. Where were their meetings held? A. In the City Hall.
5432 Q. Can you tell the jury how many meetings were held in December when you joined and up until October of 1903? A. I could exactly, no sir. We attended—I think it was about 4 times a year we attended.
Q. That is, they met quarterly? A. Yes, sir.
Q. Every three months? A. Every three months.
Q. Well, what I want to know is if immediately following becoming a member of the hatters union, did you attend the meetings? A. No, sir, I had no right to.
Q. You had no right to? A. No I had no right to.
Q. Why? A. Because I was not a union man.

Q. I mean after you joined the union in December? A. 5433
Oh, yes sir, excuse me.

Q. You attended the meetings then? A. Yes, sir.

Q. After you joined this union did you ever hear that any of the officers or agents of your union were engaged in conducting boycotts against the goods of Mr. Loewe's factory? A. No, sir.

Q. Or that they were in any way boycotting his goods on the market? A. No, sir, I don't know anything about that.

Q. Did you continue to work at the place where you were employed after you joined the organization? A. I did 5434
for a little while.

Q. For how long? A. I should think two or three months.

Q. Then where did you go? A. I went then to Mr. Mallory drying room where I worked next.

Q. You worked nights there? A. No, sir, day times. I wasn't under a union card then.

Q. How long did you continue to work there? A. I might have worked there six months, may have worked a year, well, I forget I couldn't just exactly tell.

Q. You are a defendant in this action? A. Yes. 5435

Q. Your property is attached? A. Yes, sir.

Q. Did you know anything about the union at the time that the Loewe strike occurred in July, 1902? A. I think I heard about it, yes, sir.

Q. Did you know anything about the labor organizations? A. I knew there was one, yes, sir.

Q. Is that the extent of your information? A. Yes, sir.

Q. Now at the time you joined this union had you heard up to that time, or did you have any knowledge that the organization of which you became a member had theretofore 5436
conducted interstate boycotts? A. No, sir.

Mr. Mulholland:

You may take the witness.

CROSS EXAMINATION

By Mr. Merritt:

Q. Now Dr. Dutcher when you joined this society as a new society, did you inquire into it, or didn't you? A. A little bit, yes, sir.

5437 Q. Read some of its convention journals? A. No, sir.

Q. Ever looked at them? A. I looked at the Journal once, but it never interested me.

Q. You mean before you joined? A No, sir, after I joined.

Q. Did you read the convention journal before you joined? A. No, sir, I didn't see one, never had one in my hand until after I joined the union.

Q. Didn't you ever read any of the convention proceedings? A. No, sir.

5438 Q. Before you joined? A. No, sir, only what I might have read in the Danbury News, some little sketch there, I might have read it.

Q. You didn't make any effort to look into this organization which you were about to join? A. What is that?

Q. Didn't you make any effort to look into this organization? A. I didn't have to read any, and I didn't have any to read at that time.

Q. Did you go out of your way to get some so you would know what sort of an organization you were joining? A. No, sir. Not until I was a member of the organization, and then I had one given to me.

5439 Q. You didn't even read the by-laws until after you joined? A. No, sir.

Q. Now you read in the Danbury News that the men had been called out at the Loewe plant to unionize it? Didn't you? A. I might have read it, yes, sir.

Q. That was a few months before you joined? A. Yes, sir.

Q. And didn't you read Mr. Moffitt's report concerning the operations of the united hatters? A. No, sir.

Q. Never read that? A. Never read that.

5440 Q. In the Danbury News? A. No, sir.

Q. Are you a regular reader of the Danbury News? A. I am.

Q. Subscribe for it? A. No, sir, the boys bring it to me there in my home.

Q. That was the situation in 1902 and 1903? A. I think it was 1902, yes, sir.

Q. How long have you been a reader of it? A. Ever since I have been in Danbury.

Q. How long is that? A. 18 years.

Q. You want to testify you never read a thing in the Danbury News? A. I said I might. **5441**

Q. Showing the United Hatters were engaged in boycotting? A. I might have read of it. Anything in the paper that catches your eye you are apt to read.

Q. You simply can't recall? A. No, sir.

Q. Did you receive one of the warnings, Exhibit 86? A. Yes, sir.

Q. Read it in the Danbury News also? A. I might have done.

Q. You don't recall? A. I don't recall.

Q. Did you get that before you joined? A. No, sir. **5442**

Q. When did you get it? A. I think I got it after I joined.

Q. After that you went on being a member? A. Yes, sir.

Q. And continued paying dues? A. Yes, sir.

Q. Made no protests? A. Made no protests.

Q. Didn't attempt to prevent the re-election of the same officers? A. No, sir, satisfied with them.

Q. Willing to stand on the record of the organization? A. Yes, sir.

Q. Were you paid to come here and testify at the last trial in this case in your own behalf? A. Yes, sir. **5443**

Q. Who paid you? A. Mr. Shalvoy.

Q. I will ask you whether you ever signed such a letter as this to Mr. Connelly, "My dear Sir," do you recall receiving any written communication of any kind from Mr. Connelly or any other officers of the United Hatters concerning the defense? A. I don't think I did, while I might have done, I ain't positive about that whether I did.

Q. Did you hear what I read to the witness preceding you? A. Yes, sir.

Q. Does that sound familiar to you? A. I don't think it did. I don't think I ever received that. I am pretty positive I never did, while I may have done. **5444**

Q. Are you positive you did not see it in the Danbury News? A. I wouldn't say.

Q. What steps did you take to defend yourself in this suit? A. I didn't take any.

Q. How can you explain your failure to take any steps? A. Because I left it with my officers.

5445 Q. How did you know your officers would take care of it? A. Well, I was pretty sure that they would.

Q. Didn't you get your confidence from that circular or from a letter of that kind that you received? A. No, sir, I did not.

Q. You had absolute confidence that they would take care of it for you? A. Yes, sir, and I have yet.

CHARLES BAILEY

Sworn by Mr. Davenport.

5446

EXAMINED

By Mr. Mulholland:

What is your full name? A. Charles Bailey.

Q. Have you a middle name? A. I haven't any middle name, they wasn't rich enough to give me one.

Q. You reside in Bethel, Mr. Bailey? A. I reside in Bethel.

Q. You are a defendant in this action? A. Why, I suppose so, I was attached, I had no property.

Q. What is your age? A. My age is—I hardly want
5447 to tell. I am in my eightieth year, will be eighty in January.

Q. How long have you lived in Bethel? A. Ever since I was two years old.

Q. I understand you have lived in the same house for 77 years? A. Yes, sir, I have.

Q. When did you first begin to work at the hatters trade? A. When I was 17 years old.

Q. And for how long did you work continuously at that trade? A. I have worked for 60 years, or at least I haven't worked at it in four or five years.

Q. Well, up until the time the Civil War broke out,
5448 you worked at it continuously, did you? A. Yes, sir.

Q. Then you went away to the war? A. I went away to the war.

Q. And when you came back did you again take up the trade? A. I did sir.

Q. And worked at it until about 4 years ago? A. Yes, sir, worked in one shop 36 years.

Q. And whose shope was that? A. Judd & Co.

Q. Where located? A. On Main Street.

Q. In Bethel, that is what I mean? A. In Bethel, yes, sir. 5449

Q. Mr. Bailey, when did you become a member of any Hatters Union? A. Why, when I was out of my time, I joined the union right off.

Q. That is, when you were a young man? A. When I was 21.

Q. Where did you join? A. In Bethel.

Q. And what was that Union called? A. Called the Hatters Union.

Q. I mean in which branch of the trade, maker or finisher? A. Finisher, I was a finisher. 5450

Q. Then you belonged to the finishers union? A. Yes, sir.

Q. Do you remember in 1896 when the Finishers and Makers joined forces and became the United Hatters of North America? A. Yes, sir.

Q. And what is the fact as to whether you have any rule in your organization at Bethel in reference to certain privileges being granted to a man after he reaches a certain age. A. Why, after he gets to be 50 years old he doesn't have to pay dues.

Q. That is both international and local dues? A. National dues, we have to pay them I think. 5451

Q. You have to pay the national dues, but not the local dues? A. Yes.

Q. What is the fact as to whether or not, say during the last 15 years, you have attended the meetings of the Hatters Organization? A. I have not attended any meetings I can't tell when.

Q. Well, covering a period of how many years? A. Well, I should say 15 at least.

Q. And what would you say in reference to the time since your organization became affiliated with the United Hatters of North America, that is, since 1896? A. Yes. 5452

Q. What would you say whether you have attended the meetings since that time? A. Why, as I say, I haven't attended any meetings, no regular meetings at all. Some times I have a special meeting when there is anything special going on, why I might possibly go. But I don't remember of ever attending any meetings very regularly.

Q. Do you know Mr. Loewe? A. I am not personally acquainted with him.

5453 Q. Did you ever work in his plant? A. Did I what?
Q. Did you ever work in his plant? A. No, sir.
Q. Do you recollect the trouble occurring in the plant of Mr. Loewe in the summer of 1902, a strike or something of that kind? A. A strike?
Q. Yes. A. Why, I heard it talked of.
Q. How long after the strike occurred was it, that you heard of it? A. Why, it was personally talked of shortly after it occurred, I heard it talked of that was about all.
Q. Were you ever a delegate to any convention of the United Hatters of North America? A. No, sir.
5454 Q. Or to the conventions of the American Federation of Labor? A. No, sir.
Q. Did you ever see a publication called the Federationist? A. I never read any to my knowledge.
Q. Did you ever read a publication known as the Journal of the United Hatters of North America? A. Why, occasionally. I never made a practice of reading them.
Q. Now, Mr. Bailey, did you have any knowledge that the United Hatters of North America, its agents and officers, were engaged in boycotting the goods of Mr. Loewe, in states outside of Connecticut? A. No, sir, not personally. I heard
5455 it, as I say, talked of that is all.
Q. When did you hear it, before this suit was commenced or after this suit was commenced? A. After the suit was commenced.
Q. Now I ask you if you ever knew prior to the commencement of this suit that the agents and officers of your organization were engaged in any other boycotts outside of the state of Connecticut? A. No, sir.
Q. Never heard of it prior to the commencement of this suit? A. No, sir.
5456 Q. Mr. Bailey, prior to the commencement of this suit were you knowingly a party to any conspiracy to destroy Mr. Loewe's interstate commerce? A. No, sir.
Q. Prior to the commencement of this suit were you ever a party to any boycotts the purpose of which was to interfere with Mr. Loewe's operations of his plant in any way whatsoever? A. No, sir.
Mr. Mulholland:
You may take the witness.

5457

CROSS EXAMINATION

By Mr. Merritt:

Q. You are not working at the trade now? Are you? A. What is that?

Q. You are not working at the trade now? A. No, sir, I haven't worked at it in five or six years.

Q. You were working at the trade you say, from 1900 to 1905? A. Well, from 1900—I haven't worked at it in about five years.

Q. Since 1907? A. Yes.

5458

Q. Were you working at it when this suit was started in 1903? A. I was, yes, sir.

Q. Had you been working at it continuously up to that time? A. Yes.

Q. And had been paying dues to the national organization? A. Yes, sir.

Q. You continued working at the trade and paying dues to the national organization after the suit was started? A. As long as I worked at the business, when I stopped work, all I paid was the national dues.

5459

Q. Well, you were working, weren't you, in 1904 and '05 and paying national dues? That would be 7 years ago? A. Yes, I was.

Q. Now when you were sued, did you take any steps to defend yourself? A. No, sir, I didn't think there was any necessity for it.

Q. Did you take any steps to employ counsel? A. No, sir.

Q. Did you receive this letter which I read? A. No, sir.

Q. Did you ever sign any paper authorizing the employment of counsel? A. No, sir.

5460

Q. Did you ever talk with any of the officers concerning the employment of counsel? A. No, sir.

Q. Did you ever take any steps to prevent the re-election of the same officers? A. No, sir.

Mr. Mulholland:

I take it we have an exception to this line of testimony. I believe Mr. Beach took one.

Mr. Mulholland:

That is what I understood.

5461 Q. Are you the father of William P. Bailey, are you? A. I am, sir.

Q. He is a defendant in this case? A. He is.

Q. And he has been an officer of the local union? A. Yes, sir.

Q. In Bethel for a great many years? Hasn't he? A. Yes, sir.

Q. For how long? A. I couldn't say how long.

Q. Well, he was an officer in 1900 and 1905 anyway wasn't he? A. Yes, sir.

Q. Did he live with you at that time? A. No, sir.

5462 Q. Did you ever discuss these matters with him? A. No, sir.

Q. Didn't you ever talk over with your son— A. No, sir.

Q. The question of the defense of this case? A. I did not.

Q. You didn't have a conversation with your son William P. Bailey concerning this case? A. Why, I might have had occasionally, but I wasn't very deeply interested in the matter.

Q. Didn't he ever report to you the business that had
5463 been transacted at any of the local meetings? A. No, sir.

Q. You never discussed with him the affairs of the organization? A. Of course I did sometimes, but I never was very much interested in those things.

Q. You were not much interested in the organization that you were contributing money for? A. Why, of course I was more or less interested I couldn't help but be.

Q. Although your own son was an officer of the Union, you never discussed with him concerning any of the business of the union? A. No, sir, I never did.

Q. You met your son often? A. Meet him every few
5464 days.

Q. Live in the same town, don't you? A. He lives in the same town, yes, sir.

Q. Ever hear of the Roeloff suit? A. Why, I have heard of it through—as I say, from the conversations. I never read it in the paper.

Q. You had discussed this matter with some of the members of the trade? A. Not very much.

Q. Well, to some extent? A. To some extent.

Q. Do you know whether or not your own son was a defendant in this case? A. I know that he is. 5465

Q. In the Roeloff case? A. Oh, in the Roeloff case, no, sir, I don't, I didn't know that he was.

Q. But you do remember reading of the suit? A. Yes, sir.

Q. And you knew that the officers of the United Hatters were defendants in this suit? A. As a matter of hearsay that is all.

Q. And you knew that the suit was one that was started because they charged the organization with boycotting, didn't you? A. That was the report of course. 5466

Q. You knew that before this suit was started? A. I couldn't say as to the date.

Q. Well, you knew it at about the time it took place, didn't you? A. Yes, sir.

Q. Then you did hear by rumor or hearsay that your organization was engaged in boycotting? A. That is the only way I heard it.

Q. Do you subscribe to the Danbury News? A. I read it.

Q. Regularly? A. Yes, sir.

Q. Did you read in the Danbury News that the officers of the United Hatters had taken the men out of the Loewe factory for the purpose of unionizing it? A. I might have done but I couldn't say that I did. 5467

Q. You don't recall now? A. No, sir.

Q. Did you ever read the warning which Mr. Loewe caused to be published in the Danbury News? A. No, sir, I never did.

Q. You heard such warnings had been issued, didn't you? A. I don't remember I did ever hear anything of the kind.

Q. You did not testify at the last trial? A. No, sir; I did not. 5468

Q. Have your expenses been paid as yet to come up here and testify in your own trial? A. No, sir.

Q. What did you state, that you had some property attached? A. I didn't have any property only my bank account. I had $15. in the bank and that was all I had.

Q. Was that taken over by the national officers? A. Yes, sir.

Q. They paid you the $15? A. Yes.

5469 Q. Who arranged that for you? A. Well, I couldn't say, I suppose it was the officers of the association.

Q. Who did you come in contact with, did your son arrange it for you? A. Yes, sir.

Mr. Merritt:

That is all, Mr. Bailey.

ALVAH S. PIERCE

sworn by the clerk.

EXAMINED

By Mr. Mulholland:

5470 Q. You live at 19 Starr Avenue, in Danbury? A. Yes, sir.

Q. Are you a defendant in this action? A. I am.

Mr. Merritt:

Did you testify in the former trial?

Witness:

Yes.

Q. How long have you resided in the City of Danbury, Mr. Pierce? A. Well, I think 27 years.

Q. I will ask you whether or not you are a member of some labor union or hatters union? A. I belong to it, yes.

5471 Q. When did you become a member of that organization? A. I think it was in 1886 or '7.

Q. In the year 1902, up until October 1903, where were you working? A. Well, I worked in several shops, I couldn't tell which.

Q. Did you hear of any trouble occurring during the summer of 1902 at Mr. Loewe's plant in Danbury? A. Why, I remember hearing of it, yes.

Q. Can you tell the jury where you were working at that time? A. When is that?

Q. That is 1902, ten years ago? A. I was working

5472 at Frank Lee's.

Q. What were you working at? A. Finishing.

Q. Day time or nights? A. Daytime.

Q. Did you work there during the year 1900? A. Yes, I think I did.

Q. Now prior to the occurrence of the strike in Mr. Loewe's plant, did you have any knowledge that there was to be trouble there? A. No.

Q. How long was it after the men came out before you knew that they had trouble with the Loewe plant? A. Well, probably I heard of it that night or the next day.

Q. During the years 1902 and 1903 state whether or not you attended the meetings of the local in Danbury? A. I did not. 5473

Q. What do you mean by that? A. Well, because I was a pretty tired man at night and I didn't love to be up nights.

Q. How many meetings a year do they have over there? A. They have four generally.

Q. Mr. Pierce, prior to the trouble at Mr. Loewe's plant in July, 1902, had you ever heard or had you any knowledge that the officers or special agents of your organization were engaged in boycotting goods in states outside of Connecticut? A. Never knew of it. 5474

Q. Did you ever hear of it? A. Not that I know of.

Q. Or read of it? A. No.

Q. Well, after the trouble occurred at Mr. Loewe's plant and up until say October, or up until the time you were served with the summons in this case, did you ever hear that your officers or special agents were engaged in boycotting the goods of Mr. Loewe in states outside of Connecticut? A. Never heard of it.

Q. What were your hours of employment along about that time? A. From 7 until half past four. 5475

Q. Working in Danbury all the time? A. Yes.

Q. Mr. Pierce, were you ever, at any time, prior to the time that you were served with the summons in this case, knowingly a party to a conspiracy to boycott the product of Mr. Loewe's plant? A. I never knew it.

Q. Were you knowingly at any time prior to the date you were served with summons in this case, party to a conspiracy and a combination to destroy Mr. Loewe's interstate commerce? A. No, sir.

Q. Did you know John Moffitt? A. No, sir.

Q. Did you know Martin Lawlor in 1902? A. No, sir.

Q. Did you know Mr. Maher prior to 1902? A. No, sir. 5476

Q. Could you tell the jury who the officers of your organization were in 1902 or '03? A. No, I could not.

Q. Can you tell the jury approximately how many meetings of your organization you attended between 1896 and 1907? A. Well, it may have been one or two or three or four, I couldn't tell.

Q. Were you ever a delegate— A. No, sir.

5477 Q. To any convention of the United Hatters of North America? A. No, sir.

Q. Or to the convention of the American Federation of Labor? A. No, sir.

Q. Did you ever see a publication called the Federationist? A. No, sir.

Q. Were you a regular reader of the Hatters' Journal, so-called? A. No, sir.

Q. Did you ever read it? A. No, sir; never did. They used to bring them in the shop and they were fired around there on benches, but there was so much work we didn't have
5478 time to read them.

Mr. Mulholland:

You may take the witness.

CROSS EXAMINATION

By Mr. Merritt:

Q. Mr. Pierce, I will read you an extract from the minutes of the meeting of your local organization in 1900, and ask you if you were present at that meeting, and heard any such report as this:

"Mr. Daniel Brady of Orange, New Jersey, addressed
5479 the meeting on the strike in F. Berg & Co. He said in part he was here in the first place to think the Hat Finishers Association of Danbury for their assistance during the trouble with Berg & Co. Another reason he was here to give the hatters of Danbury information regarding the strike, and to tell what was being done with their money. He said that when they entered the strike it was the intention to force Berg & Co. fair, and from the evidence he had received when he left Orange, he was convinced that they were right, and Berg & Co. will be forced to make their factory fair or go out of business. He had six men on the road working on the Berg
5480 & Co. hats. When he worked in Berg's he said they turned out 2100 dozen hats a week, and his profits were $30,000 a year, which was a profit of 5% on a business of $600,000. The record for the past week was 69 dozen a day, and it would take 115 dozen a day to pay the running expenses of the Berg & Co. plant.

He said he was satisfied that Berg & Co. was beat. There were 67 practical finishers there in the factory, and the rest were learners and the practical men were employed fixing over what the others spoiled. That Berg had given orders to the foremen to press down on the men and get better work. As

it was, in one of the workers expressions that the hats were coming back like an army of ants. 5481

Motion that Mr. Brady be given a vote of thinks for his trouble in coming to Danbury and the information he gave us. Carried."

My question was whether you recall attending that meeting? A. No, I never recall that.

Q. Recall hearing that report? A. No.

Q. Don't you recall that your assessments were increased in 1900? A. They were increased, but I couldn't tell when.

Q. Don't you recall that there was a special assessment levied so that the agents could be sent on the road to boycott Mr. Berg's goods, and that an assessment was levied for that and no other purpose? A. I don't recall. 5482

Q. You don't recall ever receiving such an explanation of the increased assessment? A. I know it was increased, but what for, I couldn't tell.

Q. You don't recall ever receiving any such explanation for any increase in assessment? A. No, sir.

Q. You are not prepared to testify are you that you never did receive such an explanation? A. Well, I can say that I never did.

Q. You are willng to swear now that back 12 years ago you never receved any such notice? A. No, sir, for the steward comes around and tells us so, it is in the shop. 5483

Q. You are prepared to tell us that your steward did not explain the reason for that increase of assessment? A. Yes, because the steward don't have time, he works at the bench and he comes around and says you owe me so much for an assessment, and we pay it and go to work.

Q. You pay anything you were asked to by the steward? A. Well, I don't ask anything. He don't ask anything more what is right. We have to pay our water money and the assessment.

Q. And whenever the steward comes, and the assessment has been doubled you pay it without askng anythng? A. It was never doubled as I know of, it was raised once. 5484

Q. According to your recollection the national assessments were never doubled? A. I don't remember of it, I know we were raised a cent.

Q. What was it just before it was raised at the time you have in mind? A. Well, I couldn't tell you, it is something that I don't try to remember.

5485 Q. But you do remember and you are willing to testify, are you, that the assessments were never doubled? A. Well, I couldn't say that because I don't remember.

Q. Now didn't you state that you had read the journals occasionally? A. No.

Q. Or did you say you never looked into them? A. No, I never heard it.

Q. You never opened any of the parts you say lying around in the factory? A. I don't think I ever did.

Q. You saw them there? A. Yes, but it didn't bother me any, I was after my dollar.

5486 Q. You could have taken them home with you if you wanted to? A. Well, I never knew anyone that did.

Q. That is a fact, they were placed there, so you could have them if you wanted to? A. Why, the steward brought them and throwed them down on the bench in a bunch. If anybody wanted one they would go and take it.

Q. And the purpose was to inform the members, wasn't it as you understood it? A. Well, it is something I didn't pay any attention to anyway.

Q. Can't you answer that question? A. Well, it might be.

5487 Q. Did you ever look into the convention proceedings of the United Hatters? A. No, sir.

Q. Never looked into any of them at any time? A. No, sir.

Q. They were left at the factory in the same way? A. Not that I know of, I never saw any.

Q. Didn't you ever see any such volumes as these lying around the factories were you were working? A. Not in the factory, not in any factory that I ever did.

Q. Where were you working in 1903, in Danbury, were you not? A. Yes, sir.

5488 Q. Who was your secretary? A. Well, I think it was Shalvoy, I don't know.

Q. Now do you subscribe for the Danbury News? A. No, sir.

Q. Did you read the Danbury News? A. Well, once in a while when I went home at night I would buy the paper.

Q. Well, once in a while you would buy a paper, did you do it often? A. Well, just as it happened. My paper was the New York Journal generally, that is about all I would read at night.

Q. Never read the local paper? A. Yes. If I did 5489
glance at it probably.

Q. Well, can't you give us any better idea than that? Did you buy it every week? A. I bought it only once in a while. I might buy it two or three times a week or once a week as I happened to meet the boy on the street going home.

Q. Didn't you read in the Danbury News that your organization was engaged in boycotting? A. No, sir.

Q. And during all of this time it never came to your attention in any way that the United Hatters were engaged in boycotting? A. No, sir.

Q. Did you ever hear of the suit brought by Henry H. 5490
Roeloff & Co.? A. No, sir.

Q. Never heard of it? A. I have heard Roeloff so much here today that I can't explain that.

Q. And you are willing to testify now that you never heard of the Roeloff suit before? A. No.

Q. You are willing to testify to that? A. Yes, sir.

Q. Did you receive one of these warnings Exhibit 86? A. No, sir.

Q. Now I call your attention to Plaintiff's Exhibit 112 for identification, and ask you if your name and address is properly entered in there as of the time of 1902? A. I 5491
couldn't see without my glasses.

Q. It says Alvah S. Pierce, hatter, house 19 Starr Avenue. A. That is right.

Q. Was that right in 1902? A. Yes, sir.

Q. Did you ever hear of the warning? A. No, sir.

Q. Now, are you willing to testify, that although those warnings were sent out to the amount of over 2,000 in Danbury in 1902, and advertised in the Danbury News for seven consecutive days, and sent by mail to all hatters some of whom were working side by side with you, that you never heard of that? A. I might have done but I can't recall it.

Q. That is what I want to know, whether you are just 5492
getting your recollection, or whether you are willing to swear positively that you never heard of it? A. Well, I couldn't swear that I did, it might be such a thing.

Q. Is the same true in regard to the operations of this organization in boycotting and so forth, that you are not willing to swear positively, are you, that 14 years ago and from then on, you never heard that they were engaged in boycotting? A. I never did, no.

5493 Q. You are willing to swear positively on that? A. That is right.

Q. You are willing to swear that you never read an article on the Danbury News relative to that matter and never heard any one discuss such a matter? A. I might have read the heading of it, but I never read any long columns of it.

Q. You mean you might, you read the heading of the articles that they were boycotting? A. I might have done.

Q. Now when you were sued did you continue a member of the organization? A. Yes.

Q. Continued paying dues? A. Yes.

5494 Q. Made no protest against the way in which the organization was being conducted? A. No, sir.

Q. Made no effort to prevent the re-election of the same officers? A. No, sir.

Q. What did you do to defend yourself in this suit? A. Well, I didn't have to do anything because I didn't have any property in my name to defend myself, so it didn't bother me.

Q. You didn't take any steps whatsoever? A. No, sir.

Q. Were your expenses paid to come here and testify at

5495 that the last trial? A. Yes, sir.

Q. Did you receive any circular from the union relative to the defense of the suit? A. No, sir.

Q. You are sure on that? A. Yes, sir.

Q. Did you receive any circular from the union relative to the employment of counsel? A. No, sir.

Q. Sure of that? A. Yes, sir; I have got all the papers that was ever sent to me in my barn now, that is the attachments, two attachments.

Q. That is all the papers you ever received? A. That is all the papers I ever received.

5496 Q. And after the suit was started you never received any circular or letter of any kind from any of the officers of the United Hatters relative to the suit? A. No, sir.

Q. You are sure of that? A. Well, I am, yes.

Q. Did you hear this letter I read relative to the employment of counsel? A. That you read a little while ago?

Q. Yes, to one of the other witnesses? A. I heard you read it, yes.

Q. You are willing to swear that you did not receive one of those? A. That is right.

Q. Did you read in the Danbury News to the effect that the men had been called out on strike to unionize the factory in the Loewe factory? A. I might have read the heading of it, I couldn't say that I did. 5497

Mr. Merritt:

That is all.

Mr. Mulholland:

That is all, Mr. Pierce.

(Fifteen minute recess.)

HENRY C. JUDD,

sworn by the clerk. 5498

EXAMINED

By Mr. Mulholland:

Q. What is your full name? A. Henry C. Judd.

Q. Henry Clay Judd? A. Yes, sir.

Q. J-u-d-d? A. J-u-d-d.

Q. Where do you live, Mr. Judd? A. I live in the town of Bethel.

Q. You are a defendant in this case? A. Yes, sir; I am.

Q. What is your age? A. 79 next month.

Q. How long have you lived in Bethel? A. Well, all my life. 5499

Q. Born there? A. Born there.

Q. And lived there all your life? A. That is, I was born in the town of Bethel. You recollect, or perhaps you don't know that Bethel is a part of Danbury.

Q. Oh, I see. And I was born in the town of Danbury in the Society of Bethel at that time.

Q. They called it at that time the Society of Bethel, being a part of the town of Danbury? A. Yes, sir.

Q. When did you first engage in hatting? A. 1850.

Q. And did you continue to work at the hatting trade there until recent years? A. Until last year. 5500

Q. Then up until last year you were working at the trade of the hatter? A. I was.

Q. When did you first join any hatters union? A. 1854 in the fall, my time was out, and I joined the union at that time and got my card.

Q. You say you are 79? A. I am 79 this October coming.

Q. Then since you were 50 years old, or for about 29 years you have been what they call an honorary member?

5501 A. Well, I was not obliged to attend meeting or pay full dues.

Q. Now during the last 28 years have you attended meetings? A. Perhaps I have attended a few times during the 28 years, but the last 15 or 20 years, I don't think I have attended a meeting in the last 15 years certain.

Q. Then you have not attended a meeting of your union since it became a member of the United Hatters of North America, that was in 1896? A. No, sir, I did not attend since that time, I am positive.

5502 Q. Do you know even who the officers of your organization were, that is, of the international organization during 1902 and 1903? A. No, sir; perhaps I could mention some. I know John Phillips.

Q. Well, he has been dead hasn't he for some years? A. Yes, he has been dead for quite a good while.

Q. In 1902 were you acquainted with the officers? A. I don't know as I had any particular acquaintance, I knew them I have seen them some time or other in Danbury.

Q. John Phillips had been an officer for a good number of years, wasn't he? A. John Phillips was an officer for a good many years.

5503 Q. Do you know how old he was when he died? A. No, sir; I don't, I should think likely he was a man of about my age, if he had lived until this time.

Q. Mr. Judd, do you recall of hearing of the trouble in Mr. Loewe's plant in Danbury in 1902? A. I have no recollection of Mr. Loewe at all until after those papers were served.

Q. Did you know him? A. No, sir; I didn't know him by sight. I first became acquainted with his location here a year ago when I was in court.

Q. That was about 2 years ago when you were here
5504 as a witness you mean? A. Yes. Was it two years?

Q. Yes, it was 2 years ago. Prior to the commencement of this suit, that is, before the time that these papers you speak of were served upon you, had you ever heard that any of the officers or agents of the United Hatters of North America were conducting interstate boycotts, and boycotting men? A. Well, I might have heard of it out of town.

Q. I mean prior to the time this suit was commenced, before this suit was commenced and the papers were served on you? A. Of course I couldn't help but hear about Roeloff and those old companies.

Q. Where did you hear about that, Mr. Judd? A. **5505**
Why, I might hear it talked of in the shops sometimes.

Q. Well, what did you hear about it? A. I don't know as I could mention any particular thing. Of course I heard that there was trouble going on.

Q. What I refer you to, Mr. Judd, is whether or not you had heard of the boycotting, prior to the commencement of the suit? A. I didn't have nothing to do with it, I didn't hear from it certainly talking about it or talking with anybody about it.

Q. Did you ever read a copy of the hatters' journal? A. Well, the Hatters' Journal at one time used to be throwed **5506**
in on our benches, but it wasn't very often I got any time to look over the Hatters' Journal. It was a paper that I very seldom read.

Q. Do you recollect ever reading anything about the boycotting in that journal? A. Well, I might have done, I couldn't say.

Q. Can you tell the jury anything that you ever read? A. I could not, no, I can't think of any particular thing that I ever read.

Q. Mr. Judd, were you ever knowingly a party to any conspiracy to destroy Mr. Loewe's interstate commerce? A. **5507**
No, sir.

Q. Were you ever a party to any combination to interfere with his trade in any way whatsoever? A. Not a bit; no, sir; never.

Q. Have you had anything at all to do with the hatters' organization during the last 28 years excepting the payment of certain dues? A. That is all. I have taken no part in the meetings or any other way, with the exception of what I would naturally have to pay to the organization to be a member.

Q. That I take it was a percentage of your earnings, or something of that kind? A. Yes, late years it has been. **5508**

Q. During the last 28 years where have you worked? A. I have worked for Judd & Dunn and I worked for the Judd-Andrews Co., that is all.

Q. That Mr. Judd is your brother I believe? A. Yes, sir.

Q. Mr. Judd, did you ever knowingly authorize any of your officers or agents to boycott Mr. Loewe's goods? A. No, sir.

5509 Q. Or to boycott the goods of any other person? A. I never did, I was not in favor of it.

CROSS EXAMINATION

By Mr. Merritt:

Q. Mr. Judd, did you have property attached in this case? A. What is that?

Q. Did you have any property attached in this case? A. I did, oh yes, I had a farm attached.

Q. What steps did you take to defend yourself in the case? A. Well, at one time I think it was Mr. Shalvoy sent
5510 a notice they would look out in some way or other. I have forgotten. I received a notice I am pretty certain, of Mr. Shalvoy.

Q. Are you at all heard of hearing, do you have any difficulty in hearing me? A. Well, sometimes I do.

Q. I want to read this to you and see if this the notice, just tell me if you do not hear it. A. Yes, I can hear you I think without very much trouble.

Q. I want to read from the Danbury News of Sept. 14, 1903.

"United Hatters of North America."

5511 Danbury, Conn., Sept. 14, 1903.

My dear Sir: You are named as one of the defendants in the two suits brought by D. E. Loewe & Co. against the United Hatters of North America and other parties. The United Hatters of North America are going to defend anyway in their own name both of the suits, but unless each individual member who is sued also enters an appearance, judgment will go against him anyway by default.

The United Hatters of North America, however, are willing to enter an appearance for each individual who has been sued individually, and pay all of the expenses of such defense, and save such individual from all liability from either of the
5516 suits, provided such individual authorizes in writing such an appearance to be made for hm.

The United Hatters of North America will also at their own expense apply for, and, if possible, obtain releases from attachments of the private property of any individual member whose defense they undertake. If you desire to save yourself any further expense, please sign the annexed paper and return in the enclosed stamped envelope by return mail. If you had any deposit in any bank which you may think may have been attached, please write the amount and correct name

of the bank where it is deposited, so that we can apply for its release. **5513**

Our reason for asking this is that the attachment papers of D. E. Loewe & Co. are drawn so blindly that it is impossible to tell whose bank depost has been actually attached without going to the banks and running through the 200 names, or else getting the names from each defendant, and it is quicker to get them direct from each defendant. Yours truly, The United Hatters of North America, by P. H. Connelly."

Just a moment and I will read the letter which they ask you to sign.

"Danbury, Bethel, Norwalk, September 14, 1903. **5514**

(I suppose that is so you can cross out any one that you did not belong to.)

"Danbury, Bethel, Norwalk, Sept. 14, 1903.

Mr. P. H. Connelly, Secretary of The United Hatters of North America.

My dear Sir:

I have read your letter of this date, and I hereby authorize you to have counsel enter an appearance for me in my name in each of the two suits recently brought by D. E. Loewe & Co. against me and others, one returnable to the Superior Court, Fairfield County, State of Connecticut, and **5515** the other to the United States Circuit Court, District of Connecticut.

And I further authorize and empower you to conduct my defense to final judgment and through as many courts as you or the counsel whom you employ deem proper, and to do, both before and after the return dates in each of the suits, all things you or your counsel think proper, but upon the express understanding that I am not to be put to any expense for such defense, or for payment of any judgment. Your truly," and a place to fill in the bank account and name of the bank.

Now does that refresh your memory as to the letter which **5516** you received? A. I think it is a fact that I received something similar to that. Of course I don't remember just the wording of it, but I think I received something of that kind, and signed it and returned it. Of course I was glad to get the worry off from my shoulders.

Q. And did you testify at the last trial? I remember that you did, and were your expenses paid for coming up here and testifying? A. I think they were. I paid them myself probably and they were paid afterwards I think.

5517 Q. That is, you were reimbursed you think? A. I think so.

Q. Now after you were sued you continued a member paying dues? A. Oh, yes, I couldn't do any other way. I had to work at hatting for a living.

Q. You mean you could not very well work at hatting for a living unless you belonged to the hatting organization? A. That would be the only way that I could do, and take the consequences other ways if I did.

Q. All the factories in Bethel were union, or were union at that time? A. Why, yes, it would be utterly impossible
5518 for me to be any other way only a union hatter, to get a living.

Q. Did you do anything to prevent the re-election of the same officers? A. I did not attend the meetings so I couldn't do anything. I didn't do anything.

Q. Make any protests Mr. Judd, against it? A. Well, I couldn't tell whether I did or not. I know what my feelings were in some respects.

Q. But you don't remember whether you ever entered any protests with any of the officers? A. I don't know that I did I couldn't tell. I am pretty positive that I never entered
5519 any protests to any officer or anything of the kind. The fact is I did not attend the meetings. I had other things that took my attention so much that I didn't go to the meetings at all and I was out of it. I have been out of it quite a good many years, I was not required to attend meetings.

Q. You had an opportunity to attend if you wished to? A. I had an opportunity to escape from going to the meetings, and I took it as most of the old men did. They dropped out.

Q. Now did you receive or read in the—did you take the Danbury News in 1902? A. Why the Danbury News
5520 comes to my house every day.

Q. You read it yourself usually? A. Of course I read it but I skip it, too, not always read it.

Q. You have read articles about the trade from time to time in the news? A. Well, most likely I did, but nothing that I can recall.

Q. Well, you recall reading about the Bergs and the Roeloff matter? A. Oh, yes; they are an older firm. I don't know why it is I never heard of Mr. Loewe.

Q. But you had heard of the Roeloff and the Berg boycott? A. Oh, yes; I always knew about those things as much as any hatter would be liable to. 5521

Q. Did you talk those matters over with other members of the trade where you worked? A. I guess not very much.

Q. You did not discuss the matter in the factories with members of the trade? A. No, I don't think I did very much. I didn't work with a very large number of men.

Q. A small factory? A. It is a small factory, and the department that I worked in, did not require a great many men and of course I was with fewer men. 5522

ORRIN B. SMITH,

sworn by the clerk.

EXAMINED

By Mr. Mulholland:

Q. You reside at 51 Greenwood Street, in Bethel? A. Yes, sir.

Q. How old are you Mr. Smith? A. I shall be 67 the 6th of February.

Q. Then for 17 years you have been an honorary member as they call it, of the hatters' union? A. Yes, sir.

Q. When did you first join a hatters' union? A. About 40 years ago. 5523

Q. And what was the organization known as at that time? A. Why the Hatters' Union or the Hatters' Trade rather.

Q. Which branch of the trade did you work at? A. It was the finishers.

Q. Then it was the Fair Hat Finishers' Association, was it? A. Yes, sir.

Q. You did not testify at the last trial, did you? A. No, sir; no.

Q. How long have you worked at the business of hatting, did you say, forty years? A. Forty years; yes, sir. 5524

Q. Can you tell the jury when you first became a member of the hatters' organization? A. Why, probably 44 years ago.

Q. And you worked at the trade up until now? A. About 5 years ago.

Q. For the last 5 years you haven't worked at the trade? A. No, sir.

5525 Q. How long have you lived in Bethel? A. About 30 years.

Q. A man of family? A. Yes, sir; I have one daughter.

Q. Were you working at the trade in the year 1902 and the fore part of 1903? A. Yes, sir.

Q. Can you tell the jury where you were employed? A. Judd & Co., in Bethel.

Q. And prior to the commencement of this suit, did you know Mr. Loewe? A. Never knew the man.

Q. Did you know of his factory? A. I don't know
5526 where it is.

Q. Never in it? A. No, sir.

Q. Do you remember of any trouble occurring in the Loewe plant in July, 1902? A. Why, no. I remember of hearing about it, but I didn't know anything about it.

Q. Can you tell the jury when that was? A. Not certainly, I don't remember.

Q. How long was it after the so-called strike occurred that you first heard of it? A. Well, that I couldn't tell.

Q. Did you know that there was going to be trouble there prior to the time that the strike occurred? A. No, sir.

5527 Q. Well, prior to that time, Mr. Smith, had you ever heard that your organization through its officers, or agents, had engaged in any boycotting outside of the state of Connecticut? A. No, sir.

Q. That matter you say, had never been brought to your attention? A. No, sir.

Q. By hearing it, by reading it, or hearing people talking about it? A. No, sir.

Q. And between the time that you heard of the strike in the Loewe plant and up until the time that you were served with the papers in this case, did you hear anything about any boycotting of Mr. Loewe's goods outside of the state of Con-
5528 necticut? A. No, sir.

Q. Or read of such a thing? A. No, sir.

Q. Mr. Smith, prior to the commencement of this action, were you knowingly a party to any conspiracy to interfere with Mr. Loewe's interstate commerce? A. No, sir.

Q. Prior to the commencement of this suit were you knowingly a party to any conspiracy organized for the purpose of boycotting Mr. Loewe's goods in states other than the state of Connecticut? A. No, sir.

Q. And I understand you to say you had never heard of it until this suit was commenced? A. No, sir. 5529

Q. You have been an honorary member for about 16 or 17 years? A. Yes, sir.

Q. That is practically since your union became affiliated with the United Hatters of North America? A. I think it is, yes.

Q. I wish you would state to the jury whether or not you ever attended meetings since that time? A. No, I have not.

Q. That is, since you were 50 years old? A. No, sir.

Q. Ever attended any meeting? A. Why, I used to when I was working in the shop once in a while go to the meetings, but not very often. 5530

Q. The meetings are held four times a year, I understood? A. Yes, sir.

Mr. Mulholland:

That is all.

CROSS EXAMINATION

By Mr. Merritt:

Q. You have never attended any meetings since 1896? A. No, sir.

Q. None at all? A. No, sir.

Q. As I understand it, the difference between an honorary member and an ordinary member, is that an honorary member is not obliged to take any part in the meeting or the election of officers if he doesn't want to, but the ordinary member is fined for not taking part, is that correct? A. I think it is; yes, sir. 5531

Q. And up to 50 years of age, a man is subject to a fine if he does not attend the meetings and take part? A. I believe that is the rule; yes, sir.

Q. And after that time he may go or not go as he sees fit? A. Yes, sir.

Q. But he has the opportunity to go if he wants to? A. He has the opportunity. 5532

Q. Are you a subscriber to the Danbury News? A. Why, it is left to the house.

Q. Was it in 1902 and '03? A. Yes.

Q. And has been for a number of years? A. Well, yes a number of years; I couldn't tell how long.

Q. And would you say to the best of your recollection that you had it during the years 1900 to 1903 inclusive? A. Yes, sir.

5533 Q. Did you read it yourself? A. Not very often.

Q. Read to you by some member of your family? A. Why my daughter reads to me sometimes, reads a little of it, sometimes I read it and sometimes I don't. Sometimes I might take it up and read some of it and lay it down.

Q. Do you read the trade news in it from time to time? A. No, sir, not very often. I may pick it up and read some little thing, look at it and law it down.

Q. Don't you remember reading in the paper that your organization was spending large sums of money in advertising the label? A. Why, I might have seen it, but not

5534 remember much about it.

Q. Well, you don't remember whether you did read any such an article? A. No, I don't.

Q. Don't remember reading Mr. Moffitt's report in the Danbury News? A. No, sir.

Q. Don't you remember reading in the Danbury News about the Berg fight? A. No, sir.

Q. Don't you remember reading in the Danbury News about the fight against E. V. Connett & Co.? A. No, sir.

Q. Don't you remember about the E. V. Connett Co. and the fight against H. H. Roeloffs Co.? A. I don't re-

5535 member as I have.

Q. Don't you remember reading about the suit being brought by H. H. Roeloff & Co.? A. No, sir; I tell you I don't remember reading the Danbury News very often. Once in a while I take it up nad read the Bethel news and lay it down again.

Q. Don't you remember hearing any one speak of it? A. No, sir; I am not a person that is not on the street a great deal.

Q. Didn't you remember hearing that suit had been brought by H. N. Roeloff & Co. against the United Hatters

5536 and some of its officers? A. No, sir.

Q. Didn't you ever hear or read that the Hatters Union had had a fight with F. Berg and Co.? A. No, sir.

Q. Didn't you know that the Hatters Union engaged in a general combination to unionize as many factories as they could? A. Why, yes; I have heard it.

Q. You had heard that? A. Yes, sir.

Q. How did you hear that? A. Why, told of it on the street when I stepped out on the street, or something like that, I couldn't tell exactly when.

Q. And they told you that the hatters union was trying to unionize various factories? A. I have heard different ones speak of it. 5537

Q. And didn't they tell you of the methods being employed to unionize them? A. No, sir.

Q. Didn't you know that strikes had been called in various factories for the purpose of unionizing them? A. I have heard of it.

Q. You had heard of it? A. Yes, sir.

Q. Prior to this suit? A. Yes, sir.

Q. Didn't you know that agents had been employed to go around to customers of various manufacturers? A. No, sir. 5538

Q. Never heard of that? A. No, sir.

Q. But you had heard that the organization had engaged in strikes at various times for the purpose of unionizing plants? A. Right in my home district, that is all.

Q. That is, you had heard of that in your home district? A. Yes, sir.

Q. Have you ever seen the Journal of the United Hatters? A. No, sir.

Q. Never have seen a copy of it? A. No, sir.

Q. Not even the cover? A. No, sir.

Q. Wasn't it ever brought to the factory where you were working? A. I never noticed it. 5539

Q. Ever see the convention proceedings? A. No, sir.

Q. Never saw the convention proceedings for any year? A. No, sir.

Q. Did you receive or did you ever read, a copy of that warning, Plaintiff's Exhibit 86? A. No, sir; I never had one.

Q. Didn't you read it in the Danbury News? A. No, sir.

Q. Didn't you hear that such a warning had been issued? A. No, sir. 5540

Q. Were you living in Bethel all this time? A. Yes, sir.

Q. Did you go to Danbury often? A. Not very often.

Q. Do you ever go to Danbury to do your trading? A. Some times I do.

Q. Bought your clothes in Danbury? A. Not always.

Q. Usually? A. No, not usually. I buy them other places as well.

5541 Q. I say do you usually buy them in Danbury? A. Why, once in a while I buy a suit of clothes in Danbury.

Q. Now do you mean to testify, Mr. Smith, that none of these matters ever at any time came to your attention, or that you do not remember them now? A. I don't remember. I don't read them.

Q. And are you willing to testify that you never heard any one speak of these matters, that you never read them, and that they were never brought to your attention in any way in the towns of Bethel or Danbury, or is your testimony this, that according to your recollection now, you do not re-
5542 member them? A. Only as I told you before, that I heard once in a while on the street about little troubles in the hat shops, but I never take any interest in them at all.

Q. Well, might it not be true, that they did come to your attention, and you not taking any interest in them had thrust them aside? A. Why, I don't know as it might.

Q. What? A. I say I don't think so.

Q. You don't think it might be so? A. No.

Q. You think in the towns of Bethel and Danbury where all these matters were going on, and all these various channels of communication were in existence, and all these
5543 matters were being heralded, that they never entered your ears, or you never read anything about it? A. I am a person that always stays to home.

Q. You had to go out to work of course? A. I had to go out to work and go to the shop, when I did work in the shop, I went to the shop and worked and came home and done a little work around my home.

Q. And you occasionally did go to the stores about there? A. Not very often.

Q. Now after the suit in this case—by the way, how much money did you have attached? A. That I couldn't
5544 say.

Q. How much money was paid you by the union on account of the savings bank attachments? A. Really, I couldn't tell you.

Q. Haven't you any idea? A. Why, it might have been, I don't know really, I couldn't tell.

Q. Don't you know whether you had more than one bank account? A. I had two bank accounts, one in each bank there in Danbury.

Q. You haven't any idea how much money there was in each one? A. Why, no, I couldn't tell.

Q. A couple of thousand dollars? A. I don't think so. 5545

Q. Over $1000? A. It might have been a thousand, I believe $1100. Something like that.

Q. Did you have any real property attached? A. What is that?

Q. Did you have any home attached? A. My little home.

Q. What did you do when you were sued, and this property attached, for the purpose of defending yourself? A. I didn't do anything.

Q. Didn't do anything? A. No, the papers were served on me and I put them in the drawer and I believe I have not looked at them since. 5546

Q. Didn't you take any steps to employ counsel? A. No, sir.

Q. Can you explain to the jury why you did not take any steps to employ counsel? Although you had this large amount of property at stake? A. I had not a very large amount of property at stake. I have got a little home there that I worked hard all my life to get.

Q. You had $1000 in the bank? A. I won't say it was a $1000, it might have been along about $1,000 or $1100., not a great ways from that. 5547

Q. Will you explain why you didn't do anything to defend yourself? A. No, I don't know as I can, only I thought I would let it take care of itself. It didn't seem to worry me any.

Q. It didn't worry you? A. No, sir.

Q. Did you receive any letter from the union in regard to employment of counsel? A. No, sir, yes, I think I did.

Q. You think you did? A. I think I did.

Q. Did you sign a paper authorizing the employment of counsel? A. I think I did, and sent it back.

Q. Can you tell whether that was addressed to P. H. Connelly and the United Hatters? A. What's that? 5548

Q. Can you tell whether it was adressed to P. H. Connelly, Secretary, and the United Hatters? A. That I forget.

Q. Now let us see if this was the authorization which you sent:

"My dear Sir. I have read your letter of this date and I hereby authorize you to have counsel enter an appearance for me in my name in each of the two suits recently brought

5549 by D. E. Loewe & Co. against me and others, one returnable to the Supreior Court, Fairfield County, State of Connecticut, and the other to the United States Circuit Court, District of Connecticut.

And I further authorize and empower you to conduct my said defense to final judgment and through as many courts as you or the counsel whom you employ deem proper, and to do both before and after the return dates in each of the suits, all things you or your counsel think proper, but upon the express understanding that I am not to be put to any expense for such defense, or for the payment of any judg-

5550 ment."

Is that the letter you signed? A. I couldn't remember it.

Q. You don't remember? A. No.

Q. Don't remember whether that was the character of the authorization you signed? A. I couldn't tell.

Q. Did you read it? A. Yes, I think I read it over, but I couldn't tell now.

The Court:

Did you ever sign more than one? A. What say?

The Court:

5551 Did you ever sign more than one? A. No, sir.

Q. Now after suit was started, did you continue a member paying dues? A. Yes, whilst I worked in the shop.

Q. Well, that was for how long? How long after this suit was it, that you continued a member paying dues? A. I couldn't tell exactly.

Q. Well, tell me approximately? A. When was this suit started?

Q. 1903. A. 1903, well I have worked in the shop until about 5 years ago, and I have paid my dues until then.

Q. Well, did you make any protest to your organization

5552 on account of this suit, or the things alleged in the bill of complaint? A. No, sir.

Q. Did you take any steps to prevent the re-election of the same officers? A. No, sir.

Q. And you said that prior to the suit you never heard of any of these things? A. No, sir.

Q. Well, when the suit was started did you make any attempts to find out if they were true or not? A. No, sir.

Mr. Merritt: That is all.

Mr. Mulholland:

That is all, Mr. Smith.

5553

GEORGE T. OAKLEY,

sworn by the clerk.

EXAMINED

By Mr. Mulholland:

Q. What is your full name? A. George T. Oakley.

Q. Where do you live, Mr. Oakley? A. In Danbury.

Q. How long have you lived in Danbury? A. Well, in Danbury township since I was eight years old, I think about that time.

Q. Did you testify in this case two years ago here? A. Yes, sir.

5554

Q. What is your age? A.. I am in my 64th year.

Q. And a defendant in this case? A. Yes, sir.

Q. When did you first become affiliated with any labor organization? A. I became a member of the Hatters organization when I was 21. I began to serve my apprenticeship, and I served four or five years.

Q. In what branch of the trade were you employed? A. The makers.

Q. Then at the age of 24 years you became a hatter? A. No, I began when I was 17 first as an apprentice, and I became a member, we had to service four years apprenticeship.

5555

Q. At the age of 21. A. At the age of 21 I became a member.

Q. Of the hat finishers? A. Of the hat makers organization.

Q. Then did you work continuously at the trade for a number of years? A. Yes, sir.

Q. Up until what time? A. I am working at it at the present time.

Q. How old did you say you are? A. I will be 64 my next birthday, I am 63 years old.

Q. Then for about 13 years or a little over you have been what they call an honorary member? A. I think that applies to Bethel but not Danbury, although I am not positive about it.

5556

Q. Well, during the last 15 or 14 years, what is the fact as to whether you have attended meetings of your local organization? A. I have rarely attended meetings since I have been a member of the organization, but I attended them occasionally.

5557 Q. Well, take shortly prior to 1902, for instance, with what regularity were you attending the meetings of your organization? A. Oh, I probably did not attend more than—say just to make a rough estimate, of I should say one a year, I couldn't say positively.

Q. Were you acquainted with Mr. Loewe prior to the commencement of this suit? A. Yes.

Q. To what extent were you acquainted with him? A. Why, we have been well acquainted for a number of years, we belonged to the old Danbury Volunteer Fire Department and that is where our first acquaintance began.

5558 Q. About how long ago was that? A. Well, I entered it before I was 21, and I don't know whether Mr. Loewe was a member of it at that time or not.

Q. Did you ever work for Mr. Loewe? A. No, sir.

Q. Ever been in his factory? A. I have been in his factory years ago. Not since this trouble occurred.

Q. Do you now remember Mr. Oakley, a strike that occurred in Mr. Loewe's plant at Danbury in the summer of 1902? A. 1902?

Q. When the men were out on strike? A. Why, I remember there was trouble there at that time. I am not at all

5559 good at remembering dates.

Q. Well, prior to that time did you ever know that the officers of your organization or the agents of your organization, were engaged in conducting boycotts, outside of the state of Connecticut? A. No, sir, I never did. I never had any knowledge of it until the attachment and papers were served on me.

Q. Well, following the time the men went out on strike in 1902 up until the time that those papers were served on you, did you ever see Mr. Loewe? A. Why, I might have met him, I met him quite often on the street, that is, occa-

5560 sionally.

Q. Did he ever say anything to you about any activities that your organization were taking against the goods produced at his factory? A. No, sir, we have never had a word of conversation regarding it.

Q. Between the time when his men went out on strike and up until the time he brought this action against you, and you were served, did you hear anything about any boycotting of the product of Mr. Loewe's factory outside of the state of Connecticut? A. No, sir; I think not until after the papers were served on me.

Q. Mr. Oakley, prior to the time these papers were served on you were you knowingly a party to a combination to destroy Mr. Loewe's interstate commerce? A. No, sir. **5561**

Q. Prior to the time that these papers were served upon you, were you knowingly a party to a conspiracy to boycott Mr. Loewe's goods in states other than Connecticut? A. No, sir.

Q. Can you tell the jury where you were working in 1903? A. I was working in Danbury, I think in the shop of E. A. Mallory & Sons, I wouldn't say positively as to the shop.

Q. Was that a union shop at that time or a non union? A. Union. **5562**

Q. I wish you would state to the jury whether or not you ever read the Journal of the United Hatters of North America prior to the time this suit was commenced? A. I never read a copy of it through. I have picked it up—it was left in the shop where it is frequently, and I have picked it up and read a little of it if I happened to be idle a few minutes. What I read was principally about the amount of money being paid in by the different shops.

Q. Did you ever read anything in the journal of the United Hatters about the alleged boycotting of your officers or agents? A. No, sir; I think not; I don't think I ever read it three times in my life anyway. **5563**

Q. Did you ever see a copy of a publication known as the Federationist published by the American Federation of Labor? A. No, I don't think I ever did.

Q. I understand you to say to the jury that prior to the commencement of this suit you never talked with anybody or read anything about any boycotting operations of the officers of the organization? A. No, I had no definite knowledge of any such thing being done, I think before those papers were served.

Q. You say you are a defendant and your property has been attached? A. Yes, sir. **5564**

CROSS EXAMINATION

By Mr. Merritt:

Q. Did you subscribe to the Danbury News in 1902? A. I have been a subscriber, or at least it is left to my house. I don't subscribe regularly, for a long time, I couldn't say how long. Probably I had the paper at that time.

5565 Q. Well, is there any doubt in your mind? A. Why, I don't think—no, we have taken the paper for years.

Q. Now, I will read you an article from the Danbury Evening News of April 10, 1902, entitled

"The Roeloffs Suit.

More details of the Philadelphia Hatter against union officers.

The announcement in last evening's paper that Henry H. Roeloffs of Philadelphia had brought suit against 16 representative of the United Hatters of North America for $250,000 damages because of an alleged conspiracy on the part
5566 of the defendants in issuing false and defamatory circulars causing to be printed a libel in their Journal, and with having agents in a number of states seeking to boycott his goods, was read with much interest by the hatters of this city and Bethel, especially as the defendants all either live here or are well known here. The suits were brought in Philadelphia, and the Philadelphia Evening Telegram gives the following detailed account of the action."

And then it continues over a column and a half more.

Now have you any recollection of ever hearing anything about that? A. No, sir; I never knew that there was any
5567 suit between the Hatters organization and the Roeloffs.

Q. You never read this article in the Danbury News? A. I don't think that I ever did, I have no remembrance of it at all. No I did not read it.

Q. Did you ever know that there was any dispute between the United Hatters and Henry H. Roeloff? A. I knew there was some trouble there but I don't know what it was.

Q. Where did you get that information? A. General conversation around the streets.

Q. That is, talking with other members of the United
5568 Hatters? A. Yes, sir.

Q. Didn't you know there had been trouble between the United Hatters of North America and F. Berg & Co.? A. I heard of it in the same manner.

Q. Didn't you know that both of those troubles or fights grew out of an effort to unionize those factories? A. I never knew what the trouble originated from.

Q. Didn't you know that they were a part of the purpose to unionize the factories? A. No, I did not. Whether I knew it was in the Roeloff case, that is, I concluded so, but the Berg factory, I never knew of it.

Q. In the Roeloff case you knew there was trouble growing out of the efforts of the United Hatters to unionize that concern? A. I supposed that to be the case. 5569

Q. You knew that a strike had taken place there? A. I knew there was trouble there.

Q. And didn't you think that the trouble included a strike probably? A. Probably it did.

Q. Didn't you think it included a boycott? A. I don't know about that.

Q. Didn't you think it did. A. Why, I had no special reason to think so, no.

Q. You have been listening here? A. Yes. 5570

Q. And you have been hearing extracts read from the Danbury News? A. Yes.

Q. You said that you had no special reason for thinking that the Roeloff fight included a boycott? A. I don't know that it did.

Q. No, but I am asking you if you didn't come to the conclusion at the time that a boycott was involved? A. I don't remember that. I have not a very distinct remembrance of it anyway. I know there was trouble there but what it amounted to and how it was settled, or whether it was ever settled, I don't know.

Q. No one would expect you to have a very distinct remembrance, it is over 8 years ago, but what I am trying to get at is the best of your recollection. Now didn't you feel that that trouble about which you knew, included a boycott and a strike? A. Why, in a general way I suppose that might be the case, but still I have no knowledge. 5571

Q. Now did you receive one of those notices? A. Why I don't know that I can see to make out what it is.

Q. Just come over here to the light? A. I don't think that I did. I may have done, but not if it is what I suppose it to be. I don't remember receiving that.

Q. You did not? A. No. 5572

Q. I show you Plaintiff's Exhibit 112 for identification, and ask you if your name appears there properly entered as it should be in 1902, that is, whether this was your address in 1902, "George T. Oakley, hatter, house 10 Washington Avenue"? A. That is right.

Q. Then your name is correctly entered in the Danbury Directory of that year? A. Yes, sir.

Q. Do you remember reading that notice in the paper? A. No, I don't.

5573 Q. Do you remember hearing other members of the trade talk about it in 1902? A. No, I can't recall as I did.

Q. And you mean that this extraordinary matter of sending out these notices to every hatter in Danbury, publishing them in the Danbury News, never came to your attention in 1902? A. I don't think that I ever have received any private notice like that one you showed me there, I have no recollection of it.

Q. Or they never came to your attention only in conversation with the trade or otherwise? A. Oh, I have heard of it.

5574 Q. You heard of it at that time in 1902? A. I couldn't say as to the time, but at the time that they were sent out I knew there was something of the sort sent out, but I don't remember receiving any.

Q. That is, when they were sent out you heard about it? A. I heard about it, yes, in an informal way. Oh, I have heard of it in an indirect manner.

Q. From talking with other members of the trade? A. Yes. I know some of them received them, but I don't remember that I did.

Q. That is you talked with other members of the
5575 trade who had received them? A. Yes.

Q. And they told you they had received them? A. Yes.

Q. Ever read this in the Danbury News for July 25, 1902?

"After Loewe Factory. The Hatters Union will attempt to unionize the plant.

The United Hatters of North America which has recently unionized several of the largest hat factories in the country, have transferred its operations to Danbury, and announces its intention of unionizing the factory of
5576 D. E. Loewe & Co. President Moffitt, Vice President Lawlor and Treasurer Maher went to the factory and ordered all the union men employed there to quit work. The men did immediately as instructed, and the factory is now short handed in all departments."

Then follows something additional, did you read that? A. I don't remember reading that, no, sir.

Q. Did you read this from the Danbury News for July 25th, 1902:

"The Loewe Matter.

The United Hatters induce non union men to leave the plant. 5577

No agreement regarding the unionizing of the factory of D. E. Loewe & Co. has yet been arrived at between the form and the United Hatters of North America.

The Hatters Union is determined to unionize the factory and the firm announces that it will continue to do business as before.

Yesterday the officers of the Hatters Union removed all of the union men from the factory and several of the non union operatives. Today the officers went further and induced all of the non union men to leave. The officers decline to state under what conditions the men were induced to stop work. Today there are no men working in the factory." 5578

Did you read that? A. I don't think that I did. I have no remembrance of reading that.

Q. Now in regard to both of those articles, are you going to testify absolutely that you said you did not read them, or that you have no recollection? A. I have no recollection of it.

Q. Now after this suit was started what steps did you take to defend yourself? A. I didn't take any steps personally. I understood this to be up to the officers to procure counsel in our defense. We could not one of us very well procure them. 5579

Q. Where did you get that understanding? A. I think I heard Mr. Taylor say that was the case.

Q. You talked personally with Mr. Taylor? A. I was at a little meeting when a few of us met before the suit was brought, or just after the papers were served, and prior to coming here, and we understood that the officers were empowered to procure counsel to defend the organization. That is the way I understood it. 5580

Q. You are referring to Mr. Howard W. Taylor who was counsel in this case? A. Yes, sir.

Q. Did Mr. Taylor state that to you? A. He stated it where I heard it. He did not say it personally to me, but I understood in this case the officers were empowered to procure counsel.

Q. Now didn't you receive any letters or circular concerning the employment of counsel? A. No, I don't remember that I ever did. I don't think that I did, for

5581 I have no rememberance of receiving anything like that paper that you read here.

Q. You are sure that you never signed any paper of that kind authorizing the employment of counsel? A. I am quite sure. If I did, I have certainly absolutely forgotten it. I don't think I ever did.

Q. Well, if Mr. Connelly should come here and testify that he had sent these out to every defendant and had received them from practically every one, would you want to stand corrected on your testimony on that point? A. I don't think that I ever signed any paper that was

5582 sent in by Mr. Connelly.

Q. Or any of the other officers? A. Or any of the other officers regarding counsel.

Q. This circular states that the letter was sent enclosing a letter for you and for each defendant to sign and with a stamped envelope, and asked to return? A. If I received it, I have no remembrance of it whatever, and I don't think that I ever received one.

The Witness:

I have no object in denying that I received it if I did.

Q. No one is reflecting upon anything unless it is

5583 your memory.

The Witness:

That is all, I mean to be honest in my statements.

Q. Some one paid you, did they not, the face value of the savings bank which you had attached? A. Yes, sir.

Q. Who paid you that? A. It was paid through P. H. Connelly, then Secretary of the organization.

Q. Well, did you go and see Mr. Connelly in regard to it? A. Yes.

5584 Q. Ask him for it? A. I asked him—yes, I did, I asked him if he would, I was informed that the money could be paid to the members, the money that was in the bank.

Q. Who were you informed by, do you recall now? A. No, it was generally understood as I take it, and I think Mr. Mallory spoke one day about it and said if we had money in the bank we might get it.

Q. Were your expenses paid to come up here and testify in your own behalf? A. Yes, sir.

Q. After you were sued in this case did you continue a member? A. Yes, sir, I am a member at the present time. I have to be. 5585

Q. What's that? A. I have to be in order to work at the trade, that is in most of the shops in Danbury.

Q. And you continue to pay dues? A. Yes, sir. We pay a percentage.

Q. You made no protests on account of the suit or any of the matters alleged in the complaint, in the bill of complaint? A. No.

Q. And you made no effort to prevent the reelection of the same officers? A. No, I have taken no part in the meetings, or done anything to prevent their re-election. I very seldom attended a meeting. 5586

The Court:

We will adjourn at this point.

Court adjourned until 10 A. M. Wednesday.

Wednesday, Sept. 25th, 1912, Morning Session, 10:30 o'clock.

Witness,

FRANK KORNHASS,

sworn by Mr. Carroll. 5587

The Clerk:

Your full name? A. Frank Kornhass.

EXAMINED

By Mr. Beach:

Q. Where do you live? A. 58 Chapin Street, Danbury.

Q. You are a little deaf, aren't you? A. Yes, sir.

Q. How old are you? A. Oh, pretty near sixty years old.

Q. And do you belong to the Makers' Union there? A. Yes. 5588

Q. How long? A. Oh, about twelve years ago—I learned the trade—no twenty years ago.

Q. Have you ever been an officer of the local union there? A. No.

Q. Or the National Union? A. No.

Q. Or a delegate to any convention? A. No.

Q. Did you regularly read the Journal of the United Hatters of North America in 1902 and 1903, and before

5589 that? A. Yes, I read him sometimes; well I read him and I no understand. I finally ask and I make mistake; I understand not very good.

Q. Do you read English? A. Yes.

Q. Did you read English in 1902? A. Yes, I read some; I no understand not much.

Q. You are a German, aren't you? A. Yes, I am German.

Q. Ever see the Federationist? A. Yes.

Q. American Federationist? A. Yes, I know what is the Federationist when I see it.

5590 Q. The Journal of the American Federation of Labor? A. Yes, I know what it is now.

Q. You know what it is? A. Yes.

Q. Have you read it? A. Yes.

Q. Where did you work in 1902? A. In Green's soft shop.

Q. Do you remember reading in the Journal of the United Hatters anything about Berg? A. Yes.

Q. What did you read about it? A. I don't know. Well I read the by-laws and anything like this.

Q. What? A. The by-laws from the union, yes.

5591 Q. Well, what did you read about Berg & Co.? A. I don't know anything about that.

Q. Do you know who Berg & Co. are; did you ever hear of them before? A. No.

Q. Did you read anything about Roelofs & Co.? A. No, not much. Well, I hear them talk. I read not much about this at all.

Q. What did you hear them say about Roelofs & Co.? A. Oh, I heard about the fight.

A. It is very long—I forget it. I hear about it, yes.

Q. What did you hear? A. Oh, there was a strike

5592 and lockout or anything like this.

Q. Is that all that you heard about it? A. Yes, that is all.

Q. Did you know anything about the trouble in Loewe's shop before the men came out? A. No, I hear nothing about—the men was out, I hear it, that was all.

Q. After they came out did you hear anything about their goods being followed up in other states? A. No, I hear not. I can't remember that anyway.

Q. Before the suit was brought I mean? A. I can't remember this. If I hear anything I forget it any way, it is so long now. 5593

Mr. Beach:

That is all.

CROSS EXAMINATION

By Mr. Merritt:

Q. After you were sued did you take any steps to employ counsel? A. What?

Q. Did you employ an attorney in this case? A. No.

Q. Did you receive a letter from your union in regard to this case? A. No.—I understand not right now. 5594

Q. Did you receive any letter from your union? A. Oh, yes; well yes, I guess some.

Q. You think you did? A. I got some letters from the union.

Q. In regard to this case? A. Well, yes.

Q. In regard to employing counsel—you know what I mean? A. No, I don't know what it mean now, that's it.

Q. You testified at the last trial, didn't you? A. Yes. 5595

Q. Were your expenses paid to come up and testify? A. Yes.

Q. You continued a member of the union after you were sued? A. No I can't—

Q. You don't understand me?

Mr. Merritt:

I take it that there is no doubt about it, is there?

Mr. Beach:

I don't know. No, I suppose not.

Q. Did you continue a member of the union after you were sued; after this suit? A. Oh, yes; I am member. 5596

Q. And continued paying dues? A. Oh, I paying dues, yes.

Q. And did you make any protest; do anything to try and stop these things? A. I could do not anything.

Q. Did you attempt to do anything? A. Well, somebody said, well this is not your business; it is the business for all together. That is not the business for one man, it is the business for all together.

5597 Q. Now you didn't take opportunity to prevent the reelection of the same officers, did you? A. Yes, I see Mr. Connelley.

Q. Did you take any steps to prevent the reelection of the same officers? A. No.

Q. You were satisfied with the officers? A. Yes, I am satisfied. What do you want to do? The people want—you can do nothing alone.

Q. You were satisfied with the record of your union as far as you understood it? A. Yes, that is all.

5598 Q. Did you read the Danbury News in 1902? A. Oh, sometimes yes; well, I couldn't understand not much. I read it. I ask somebody what does this mean.

Q. Did you receive this copy of "Plaintiff's Exhibit 86"? A. I get some paper like this; I can't remember if it was one like this or it was another one; it is very long now.

Q. You are not sure? A. Not sure.

Q. Well, you testified at the last trial that you received this, didn't you? A. I don't know.

Q. You had heard of the fight against Roelofs, hadn't

5599 you? A. Oh, I hear them, yes.

Q. And you heard that a suit was brought against your Union on account of that fight? A. No, I don't know. I can't remember about this.

Q. Now, don't you remember reading—

Witness:

(Interrupting) I hear not.

Q. Don't you remember hearing some of the men say that the union had been sued on account of the Roelofs fight? A. No, I hear not.

Q. You don't remember that? A. No.

5600 Q. Did you say that you never heard of the Berg fight? A. No.

Q. How long have you been a member? A. Oh, twenty five—twenty years—twenty five years.

Q. And have you read the Journal of the United Hatters from time to time? A. Some times, yes.

Q. Did you receive any of the reports of the agents? A. Yes.

Q. You read some of those? A. Yes.

Q. In the Journals? A. Yes.

Q. That is, the agents who were out on the road? A. Oh, I don't know, I can't tell. 5601

Q. Did you read the reports of your officers? A. Oh, yes; I read some times that.

Q. Mr. Moffitt's reports? A. Yes.

Q. As President? A. Yes.

Q. Did you read his report in the Convention of 1903? A. Oh, I can't say about this, that is too long.

Q. You don't know whether you did or not? A. No.

Q. But you have read Mr. Moffitt's reports at various times? A. Well, I read them and I read them not. 5602

Q. But you have read some of them? A. Yes.

Q. And you have read the reports of some of the agents as they appeared in the Journal? A. No, I don't know anything about the agents.

Q. Well, now, these reports appear in the Journal, and you stated that you have read the journal sometimes? A. Sometimes, yes.

Q. Now in these journals, didn't you read some of these reports? A. Well, that is one thing; I read him and I read him not; one or two times, and the other times I let him go.

Q. You can't recall just what you have read? A. No. 5603

Mr. Merritt:

That is all.

Mr. Beach:

That is all, Mr. Kornhass.

Witness excused.

Witness,

ARTHUR L. PICKETT,

sworn by Mr. Carroll. 5604

The Clerk:

Your full name? A. Arthur L. Pickett.

Q. Where do you live, Mr. Pickett? A. I live in Danbury, sir.

Q. You are one of the defendants? A. Well, I don't consider myself so, Mr. Beach.

Q. You are named in the complaint? A. Yes, I have been named; yes, sir.

5605 Q. Did you at any time belong to one of the local hatters' association? A. Yes, sir.

Q. Which one? A. The Finishers.

Q. Finishers of what town? A. Danbury.

Q. Where did you work in 1900 to 1903? A. 1903 I wasn't working at it at all.

Q. Where did you work prior to that time? A. Prior to that time I was working in Bethel, I think the last three years; before that I had always worked in Danbury.

5606 Q. When did you join the Association, do you remember? A. Why in 1870; 1870 or 1871, somewhere along there.

Q. How old are you now? A. Sixty.

Q. A man of family? A. Yes, sir.

Q. Children? A. Yes, sir.

Q. How many? A. Three—four living; three girls and one boy.

Q. Now you said that you had not worked at the trade since 1903? A. 1902.

Q. When did you quit? A. I quit on October 14th, 1902; that is when I stopped; I had stopped working

5607 before that but I drew my card October 14th, 1902.

Q. Well, have you got that card with you? A. Yes, sir.

Q. I would like to fix that date; what is this that you have handed me? A. That is my traveling card.

Q. Your traveling card, and you took it out when you were going to some other place? A. In going from one district to another.

Q. Have you been employed at your trade since you took out your card? A. I have not, sir.

5608 Q. There has been something said about traveling cards here, and I would like to have the jury see this? A. You will find on the back of it October 14th, 1902, I think. It has been in my pocket; it has been used some time.

Q. It is a paper with on the lefthand upper corner a shield of the United States with stars and stripes: then above that "An injury to one is the concern of all." Inside of that the representation of the United Hatters' Label, United States of America, with a globe and crossed flag. Below the words "The interests of employer and employee are identical." Then the dates of organization

"1885, re-organized 1896," the legend "The United Hat- 5609
ters of North America traveling card," and some ornamental work and the signatures in print or imitation handwriting of John Phillips, Secretary, and John A. Moffitt, President, and on the back— A. That is supposed to be when we cleared from the District.

Q. Yes. On the back this "This is to certify that A. L. Pickett, Finisher, is a member of the United Hatters of North America, signed W. P. Bailey, Sec'y. Bethel October 14th, 1902."

We you ever a delegate to any convention, Mr. Pickett? A. No, sir.

Q. Or an officer of any local or national union? A. 5610
No, sir.

Q. Were you, prior to the beginning of this suit a reader of the Journal of the United Hatters? A. I never read one in my life; never had my hands on one

Q. They were scattered in the factory where you worked? A. I have seen them in the factory, but I never was interested in it and I never read one.

Q. Did you in 1902 and '03 have any knowledge that the officers of your organization were engaged in any manner in the restraint of trade? A. Where do you 5611
mean; anywhere?

Q. Anywhere? A. No, sir.

Q. Did you before the men went out—before the trouble in Mr. Loewe's in July 1902, know anything of any trouble in that factory? A. I knew nothing of the trouble in Mr. Loewe's factory until the time the men came out of there; I hadn't heard of any trouble.

Q. Did you, prior to the beginning of this suit; prior to the time the papers were served on you in this suit have any knowledge as to the claimed acts of the agents or officers of the United Hatters, in respect to a re- 5612
straint of Mr. Loewe's trade? A. Did I have any knowledge of that?

Q. Yes? A. No, sir; I didn't.

Mr. Beach:

I think that is all.

5613

CROSS EXAMINATION

By Mr. Merritt:

Q. Did you receive a copy of this warning, "Plaintiff's Exhibit 86" (showing same to witness)? A. Yes, sir, I did.

Q. Were you a reader of the Danbury News in 1902? A. Yes, sir; it comes into my house regularly every evening.

Q. You are a regular reader of it? A. Yes, sir.

5614 Q. How long have you been a regular reader of it? A. Why, practically ever since it was printed, in a way. I don't mean to say I read it all, but I read the papers sometimes; sometimes I don't read it at all. Other times I do. It comes into my house every evening.

Q. Didn't you read in the Danbury News that the Hatters were spending large sums of money advertising the label? A. I don't remember that I did; I possibly might have done.

Q. You don't recall? A. I don't recall; ten or eleven years ago. I don't remember all that I read ten or twelve years ago, Mr. Merritt; possibly I might have

5615 read it.

Q. Well, let me just read you this article. I will be as brief as possible: "Advertising the Hat Label. United Hatters have spent thirty thousand dollars in two years for that purpose. A lesson can be learned by the Labor Unions of Cleveland by the work for the union labels that is being done by the United Hatters of North America. A New Jersey concern recently refused to recognize the union, and ever since, the organization has been carrying on a wonderful fight against the concern.

5616 So far the hatters show every sign of whipping the employer, who is one of the largest manufacturers of soft hats in the country. They carry on quite a systematic fight and one that is telling. The union has perfected a secret service whereby we know just where every case of hats shipped out of the factory goes to, and keep it in sight until it arrives at its destination. Here the case is watched, and if it goes to a jobber, every sale that he makes is watched and known. The organization has several agents out throughout the country, who are fighting the firm." Can you state whether you ever read that or not? A. I

possibly might have read that; couldn't say whether I 5617
did or not. I might have read it, and I might not. I don't remember. I don't say that I didn't nor I don't say that I did.

Q. I understand your position perfectly? A. I am perfectly honest about it.

Q. You are now able to testify that you never did know— A. No, sir.

Q. That your organization was engaged in this boycott? A. I wouldn't say that.

Witness:

I don't remember whether I did or not. I might 5618
have read it and might not. It has been eleven years ago.

Q. Have you ever seen the Convention Proceedings of the United Hatters? A. No, sir; I never took any interest in that Journal.

Q. You never read any of them? A. No, sir.

Mr. Davenport:

Were they distributed in the factory? A. They were I never took any interest in them.

Mr. Davenport:

You knew what they were? A. I possibly might 5619
have known what they were, but I never read any of them. I wasn't interested in them. I went to the factory to work. I didn't go to read that kind of stuff.

By Mr. Merritt:

Q. Now I understood you to testify, on your direct examination that you never knew that your organization was engaged in any restraint of trade or anything of that kind? A. No, sir; I didn't know that they were.

Q. You knew it if you read any of these articles? A. If I read any of what articles?

Q. In the Danbury News? A. I didn't say that I 5620
remembered reading any of those articles in the News. I read the news and I possibly might have read those articles.

Q. Then you would have known that your organization was engaged in this action, only you don't remember it now? A. I possibly might, but I don't remember reading it. I never read the Journal or the literature at all; therefore I didn't keep in touch with it all.

5621 Q. What did you understand was the object of your union? A. Object of my union?

Q. Object of the union; what was your object in joining it? A. Why, we always have to join it to work if we are fair; when I was a fair hatter everybody was fair, and everbody had to join the union if they kept to work.

By the Court:

Q. Did you have a constitution and by-laws? A. Did I; no, sir, I never had one.

By the Court:

5622 Q. Did you ever read them? A. I don't think I ever did. I don't remember. If I did I don't remember of ever reading them.

By the Court:

Q. Did you know there was a constitution and by-laws? A. Why, I presume likely I did, Mr.—

Q. Don't you know now whether you ever looked at them or not? A. That is going back a good ways. That is going back thirty or thirty five years ago, Mr.—I possibly may have read them. I don't say that I did, or I don't say that I didn't, but that is going back a good many

5623 years.

Q. You can't state from recollection how you did know about it? A. Why, no; that is right. But I have nothing to cover up here.

By Mr. Merritt:

Q. Did you receive a letter from the union in regard to the employment of counsel? A. I did; that is if I remember right I think I did, and I think I sent it to Mr. Connelley.

Q. You signed it? A. I believe, if I remember

5624 right, that I did.

Q. Now let me see if this is the letter that you received—If these other gentlemen will listen to some of these things it may not be necessary to read them to you. I read what purports to be Mr. Connelley's letter: "United Hatters of North America, Danbury, Conn. September 14th, 1903. Dear Sir: You are named as one of the defendants in two suits brought by D. E. Loewe & Co. against the United Hatters of North America and other parties. The United Hatters of North America are going to defend anyway in their own name both of the suits;

but unless each individual member who is sued also enters an appearance, judgment will go against him anyway by default. The United Hatters of North America, however, are willing to enter an appearance for each individual who has been sued individually, and pay all expenses of such defense." I want you to hear this, Mr. Mulholland, in view of our discussion, "and save such individual from all liability from either of the suits, provided such individual authorizes in writing such appearance to be made for him." 5625

"The United Hatters of North America will also at their own expense apply for, and, if possible obtain releases from attachment of the private property of any individual defendant whose defense they undertake. 5626

"If you desire to save yourself any further expense, please sign the annexed paper and return in the enclosed stamped envelope by return mail.

"If you had any deposit in any bank, which you think may have been attached, please write the amount and the correct name of the bank where it is deposited, so we can apply for its release.

"Our reason for asking this is that the attachment papers of D. E. Loewe & Co. are drawn so blindly that it is impossible to tell whose bank deposit has been actually attached, without going to the banks and running through two hundred names, or else getting the names from each defendant, and it is quicker to get it direct from each defendant. 5627

"Yours truly,

The United Hatters of North America,

By P. H. Connelley."

Mr. Merritt:

This is the form of letter which is enclosed for each defendant to sign, and mail back to Mr. Connelley; is that right? 5628

Mr. Merritt:

"My Dear sir:

"I have read your letter—" That is, the letter that I have just read—"of this date, and I hereby authorize you to have counsel enter an appearance for me in my name in each of the two suits recently brought by D. E. Loewe & Co. against me and others, one returnable to the Superior Court, Fairfield County, State of Connecticut,

5629 and the other to the United States Circuit Court, District of Connecticut.

"And I further authorize and empower you to conduct my said defense to final judgment, and through as many courts as you or the counsel whom you employ deem proper, and to do both before and after the return days in each of the suits, all things you or your counsel think proper, but upon the express understanding that I am not to be put to any expense for such defense or for the payment of any judgment." Is that the letter? A.

5630 Why, I remember of a letter something like that, and I think I signed it and turned it in to Mr. Connolley, if I remember.

Q. To the best of your recollection that is the letter? A. To the best of my recollection, I did, yes.

Q. And I take it, after you were sued you went on being a member and paying dues? A. No, sir, I didn't.

Q. Oh, you stopped being a member October 14th, 1902? A. 14th, 1902.

Q. Why did you cease to be a member? A. Oh, simply my health failed me and I got away from—and

5631 my mother died at the time, and she left me some property and I thought I could get along with economy to get away from it.

Q. Now, down to October, 1902, where were you working? A. In Bethel—1902—well it was a little before October. I drew my card; I think it was in November that I quit entirely; or September rather.

Q. Were your expenses paid at the last trial when you came here and testified? A. Yes, sir.

Witness excused.

Witness.

5632 CLEMENT BESCHLE.

Sworn by Mr. Carroll.

The Clerk:

Your full name? A. Clement Beschle.

EXAMINED

By Mr. Beach:

Q. Mr. Beschle where do you live? A. Danbury.

Q. Are you a member of any hatters union? A. Yes.

Q. What? A. The United Hatters.

Q. Maker or finisher? A. Maker.
Q. Of Danbury? A. Yes. 5633
Q. How old are you? A. Fifty-seven.
Q. Man of family with children? A. Yes, sir.
Q. How long have you lived in Danbury? A. Thirty-two—thirty-three years.
Q. Where were you working in 1902? A. In Green's —Green's Soft Shop.
Q. Were you ever a delegate to any convention? A. No.
Q. Or an officer of any local or national union? A. No. 5634
Q. Either of the American Federation of Labor or the United Hatters? A. No.
Q. When do you first remember of any trouble in the Loewe Factory in 1902, or about that time? A. Well, I heard it when everybody was talking about it when it was in the News.
Q. When it was in the News? A. Yes.
Q. Did you know anything about it before that time? A. Not that I remember.
Q. Now after the time when the men came out, and until the papers were served upon you in this case, did you or not know of anything of what the officers were doing, if they were doing anything, about Mr. Loewe? A. I didn't know a bit about it. 5635
Q. Did you in 1902 and 1903, and before that time read the Journal of the United Hatters? A. Oh, I looked around once a while in it. I couldn't read very much in it anyhow to know. I'm not very good in English, but I looked around once a while. I didn't see anything about the Loewe case at all.
Q. Do you remember reading anything in the Journal about Berg & Co.? A. I don't. 5636
Q. Did you know who they were? A. Oh, I know who they are; I know now.
Q. Well, did you then know? A. No, then I didn't.
Q. Do you remember reading anything in the Journal about Roelofs & Co.? A. No.
Q. Did you at that time know who they were? A. No.

Mr. Beach:

I think that is all.

5637

CROSS EXAMINATION

By Mr. Merritt:

Q. Well, now, Mr. Beschle, you joined the union because you thought that by uniting together you could accomplish certain things, didn't you? A. I joined the union because the bosses made me join the union. The bosses in Danbury made me join the union, or I have to go out of town. They all unionized their factory; I was an independent man before; and they all unionized their factory and I had to go to a union or go out of town.

5638 Q. When was this? A. 1886.

Q. Who were you working for? A. For your father.

Mr. Merritt:

Q. Working for my father, did you say? A. Yes, sir.

Q. Now did you state that you have never heard of the Roelofs fight? A. Yes, that is what I stated.

Q. Didn't you ever know that a suit was started against your organization? A. No.

Q. Have you any knowledge as to what your union has been doing in any way? A. I never attended a meeting—

5639 I very seldom attended meetings. I don't know what is going on.

Q. Well, did you ever hear anyone tell what was going on? A. Oh, I hear once a while something, but I don't know if it is the truth when I hear something.

Q. Haven't you heard—

Witness:

(Interrupting.) I can't remember that I hear anything about it.

Q. Well, don't you remember hearing at various times that your union was engaged in trying to unionize various factories? A. No, not before it was all over.

5640 Q. Well, after it was all over, hadn't you heard of such things? A. After it was all over, sure, everybody talk about it: neighbors and shop.

Q. Who? A. My neighbors and in the shop.

Q. What factory, Mr. Beach wants to know? A. In Green's soft shop I work then.

Q. And was that a union shop? A. Yes.

Q. And all the men working with you were members of the union? A. Yes.

Q. Hatters' union? A. Yes, sir.

Q. And they talked on matters interesting to the trade from time to time? A. Yes, but most of them didn't know more than I did. I didn't know nothing about it only what I hear around. 5641

Q. But you talked about matters concerning your organization with anybody? A. Yes, once a while.

Q. Did the men converse together as they carried on their work? A. Well, once a while; once a while they talked.

Q. And you heard that certain factories had been unionized? A. Well, they say—they sometimes talk.

Q. No, but I am talking now about the time—you say you didn't know that Berg had been unionized? A. No. 5642

Q. Never heard that they had been unionized? A. No, not that I remember.

Q. Well, how about Roelofs? A. I didn't know anything about them neither.

Q. You never heard then that they had been unionized? A. No, I don't even know it they are unionized now or not.

Q. You read the Danbury News? A. I did once a while.

Q. And didn't you ever read in the Danbury News concerning the trade matters? A. No. 5643

Q. Never read in the Danbury News concerning trade matters? A. No, I couldn't read much anyhow, you know.

Q. Now listen to my question. You never read a thing in the Danbury News concerning any trade matters? A. No.

Q. When I say trade matters I mean unions and trade organizations? A. No, no, I didn't. Not about the Loewe case.

Q. I am asking whether you read any matters relating to your organization? A. No.

Q. Never? A. I don't remember. 5644

Q. Well, now you say you never read anything there relating to the Loewe matter? A. Yes, that is what I said.

Q. Then how do you know that you heard of the Loewe matter at the time it appeared in the News? A. Well, they was talking all over about it.

Q. That is you heard people say it was in the News? A. No, I only heard them say there is trouble in the Loewe shop: trouble with Loewe, that's all.

5645 Q. Yes. But didn't you testify that you heard this at the time it appeared in the Danbury News? A. Yes.

Q. Then how did you know it was in the Danbury News? A. Heard talk around.

Q. You heard people say it was in the Danbury News? A. No, they didn't say Danbury News; they only said they heard there was trouble in Loewe's shop.

Q. Well now, let me see; you were reading the Danbury News in 1902? A. Once a while a little.

Q. And here is an article July 25th, 1902, which says "After Loewe Factory.

5646 "Hatters' Union will attempt to unionize this plant." Did you ever read that heading? A. No.

Q. You are sure you didn't? A. I can't remember; read the rest and I will see.

Q. Did anybody read it to you; did you have anybody in your family that read to you from the papers? A. Yes, I got some, but they were small then; my children were small and my wife can't read English, for my wife is German and I am German; my wife comes from Germany and I am from Germany too.

5647 Q. "The United Hatters of North America which have recently unionized several of the largest hat factories in the county, has transferred its operations to Danbury, and announces its intention of unionizing the factory of D. E. Loewe & Co. President Moffitt, Vice-President Lawlor, and Treasurer Maher went to the factory and ordered all the union men employed there to quit work. The men did immediately as instructed, and the factory is now short handed in all departments." Do you remember reading that? A. No, I didn't read that, I heard about it.

Q. You are willing to testify that you never read that?

5648 A. Yes.

Q. Although it is ten years ago? A. Yes.

Q. Do you mean by that Mr. Beschle that you don't remember reading it, or do you mean that you swear that you didn't read it? A. I guess I can swear that I didn't read it.

Q. What? A. I guess I can swear that I didn't read it.

Q. You remember that you didn't read it? A. Yes.

Q. Well, now, I show you this article:

"July 26th, 1902. The Loewe Matter:

"The United Hatters induce non-union men to leave the plant. No agreement regarding the unionizing the factory of D. E. Loewe & Co. has yet been arrived at between the firm and the United Hatters of North America. The Hatters Union is determined to unionize the factory, and the firm announces that it will continue to do business as before. Yesterday the officers of the Hatters Union removed all of the union men from the factory, and several of the non-union operatives. Today the officers went further and induced all of the non union men to leave. The officers declined to state under what conditions the men were induced to stop work. Today there are no men working in the factory"; did you read that? A. I didn't read that neither. I only had the paper once a week anyhow. **5649** **5650**

Q. Oh, you take the weekly issue? A. Yes. I didn't read nothing in there neither about the Loewe case. I am sure of that.

Q. Now, didn't you read in the weekly issue the report of John Moffitt? A. What's that?

Q. Of May, 1903; well, I will read it to you, or a part of it. Let me show you the article to begin with (shows witness paper).

"Annual adress of President Moffitt, head of the United Hatters. Reviews year's work, and makes recommendations"? A. I didn't see that neither. **5651**

Q. You didn't see that? A. No.

Q. That is in the weekly issue, isn't it? A. Well, I didn't read all of it, only once a while I look at it. It take me all day if I would read it all, for I can't read very good.

Q. Didn't you read in the weekly issue that suit had been brought by Henry H. Roelofs & Co.? A. No.

Q. You never read anything in the Danbury News about the Roelofs suit? A. No.

Q. Well, now, I will ask you if you read any of the articles concerning the advertising of the hatters' label? A. I don't think I did. **5652**

Q. You don't think you did; well, there is an article in the Danbury News:

"Advertising the Hat Label. The United Hatters have spent thirty thousand dollars in two years for that purpose"? A. I don't know nothing about that.

Q. Did you ever read it? A. No. I don't know nothing about that.

5653 Q. Now, as I understand it, you heard the men talk together about the strike in Loewe's factory? A. Yes, after this strike was on.

Q. And you knew the strike was for the purpose of unionizing the factory, didn't you? A. Well, I didn't know that.

Q. Wasn't that part of the talk? A. Well, sure; they—

Q. (Interrupting.) Didn't they tell you the strike was for the purpose of unionizing the factory? A. Yes, they did.

5654 Q. Well, didn't they also state that they had unionized other factories? A. No.

Q. Didn't you hear them state that they had just got through unionizing Roelofs a few days before? A. No.

Q. Never heard anything of that kind? A. No.

Q. And you never heard them mention the unionizing of other factories? A. No.

Q. You simply heard them say that there was a strike called to unionize the Loewe factory? A. Yes.

Q. Did you state whether or not you have ever read the Journal of the United Hatters? A. Like the News I looked
5655 around once a while.

Q. Read the report of the officers occasionally? A. No.

Q. Never read those? A. I only looked around a little, the shop.

Q. Didn't you read in the Journal that they were trying to advertise the hatters' label? A. No, I can't remember nohow.

Q. You knew your union had a label, didn't you? A. Yes, sure.

Q. You knew that they were trying to have labeled
5656 goods sold in preference to goods without the label, didn't you? A. Sure.

Q. Didn't you know agents were sent on the road for that purpose? A. No.

Q. What means did you think were being employed to bring about the sale of union goods instead of non-union? A. What; I don't understand that.

Q. What did you understand were the means that were being used to bring about the sale of union goods instead of non-union? A. Oh, advertise, I guess.

Q. Advertising? A. Sure.

Q. And you didn't know that advertising agents were employed? A. No. 5657

Q. Never heard of that? A. No.

Q. How did you know that they had a union label? A. I see them in the hats.

Q. And you knew it belonged to your organization? A. Yes.

Q. And didn't you read anything in the Journal about this? A. No.

Q. Or in your Convention proceedings? A. I didn't go to the Convention.

Q. No, but there are printed proceedings of the convention? A. No, I never saw any. 5658

Q. You never looked into that? A. No.

Q. Were journals left around the shop where you were at work? A. Yes.

Q. And were the Convention proceedings? A. I don't know.

Q. After you were sued did you continue a member?

A. Sure.

Q. Paying dues? A. Yes.

Q. And you made no attempt to prevent the re-election of the same officers? A. No, I didn't. 5659

Q. You were satisfied with them? A. Yes.

Q. Willing to stand on the record of your organization? A. I guess I had to.

Q. Were your expenses paid to come and testify at the last trial? A. Yes.

Q. Did you receive any letter from your organization in regard to the employment of counsel? A. Yes, I guess I did.

Q. Did you sign it? Sign the letter and send it back to Mr. Connelley? A. Yes. 5660

Q. Did you hear the one I read? A. Yes.

Q. Was that the one? A. It don't sound to me like it was the same.

Q. Doesn't sound to you? A. I guess it was shorter.

Q. You don't think that is the one? A. I don't think that is the one you read, no.

Q. You never heard it before, to the best of your recollection? A. As far as I know it only stated that I shall write my name at the bottom of that other paper, and the

5661 other paper said that I hire a lawyer to fight my case; that is all I remember about.

Q. And you are positive that you never received this letter that I read? A. Well, I received one letter that wasn't as long as that is there.

Q. You are positive you didn't receive that one? A. I don't think so.

Q. What was your address in 1902? A. 60 Chestnut.

Q. And your name appears properly in this directory "Exhibit 112." "Clement Beschle, hatter, 60 Chestnut"? A. 60 Chestnut Street.

5662 Q. Did you receive this warning? A. That is the warning Loewe sent around ain't it?

Q. Yes? A. Yes, I received that.

Q. You received that, did you? A. Yes.

Q. And I take it you took no other steps to employ counsel than to send this letter? A. What other shall I do? I know I had nothing to do.

Q. Answer the question please? A. What is that?

Q. You didn't do anything but sign that letter as far as the employment of counsel to defend yourself was concerned? A. Sure, I did nothing.

5663 Q. Your expenses were paid to come in here and testify in the last trial? A. Yes.

Witness excused.

Witness,

GEORGE F. DENTON

Sworn by Mr. Carroll:

The Clerk:

Your full name? A. George F. Denton.

EXAMINED

5664 By Mr. Beach:

Q. Where do you live Mr. Denton? A. 93 Osborn Street, Danbury, Conn.

Q. And how old are you? A. I am most sixty-two.

Q. You a man of family; with children? A. Yes, sir.

Q. How long have you lived in Danbury? A. Well, I came to Danbury in the Fall of 1881—October.

Q. What local union are you a member of there? A. Hat Finishers.

Q. When did you join it? A. Well, I think it was in 1882; I went to work in the Fall of 1881. 5665

Q. Have you ever been an officer of the Local Union? A. No, sir.

Q. Or a delegate to any Convention of the American Federation of Labor or United Hatters? A. No, sir.

Q. Where were you working in 1902 and '03, and for ten years before that? A. Working in Meeker Bros.

Q. Was that a union or non-union shop? A. It was a non-union shop, if I remember right.

Q. Were there any journals of the United Hatters distributed in that shop? A. I never remember of seeing any. 5666

Q. Did you read the Journal of the United Hatters in those days? A. No, sir; never saw but one in my life.

Q. Did you ever read the American Federationist? A. No, sir.

Q. What if anything did you know about the Berg strike in 1899, prior to the beginning of this suit? A. Not anything.

Q. Did you know the firm of Berg & Co. then? A. No, sir; I don't remember as I ever heard of them.

Q. How about the Roelofs' strike, what if anything had you heard about the Roelofs' strike prior to the beginning of this suit? A. Well, I haven't heard anything about that, not to my recollection. 5667

Q. Were you a regular attendant at the meetings of your organization? A. No, sir; I wasn't; for thirteen years I didn't attend the meetings.

Q. For how long? A. About thirteen years.

Q. And was that along in the time we are talking about from 1900 to 1903? A. I think it was.

Mr. Beach:

That is all.

CROSS EXAMINATION 5668

By Mr. Merritt:

Q. Haven't you attended a meeting for thirteen years? A. Well, for the last three or four years perhaps I attended three meetings; not over that.

Q. Well, take the years 1900 to 1903; didn't you attend any meetings at that time? A. No, sir.

Q. Not a single meeting? A. Not a meeting.

Q. And you have been a member of the Finishers' Union of Danbury during all that time? A. I think I have

5669 —no I won't say that I have been a member, because I have worked in a non-union shop, and didn't pay no dues for several years.

Q. Now what years didn't you pay dues? A. Why didn't I?

Q. What years didn't you pay dues? A. Now, I couldn't tell. I think it was from—let's see, I think it was from 1894 to 1906.

Q. Have we got any record to show in regard to that? A. I don't remember as I paid any dues in that time, although I might have done.

5670 Q. According to the best of your recollection, you paid no dues between 1894 and 1906? A. To the best of my recollection I didn't pay any dues in that time.

Q. Now you read the Danbury News? A. Well, very seldom.

Q. Were you reading it in 1902 and '03? A. Well, I might have read it a very few times.

Q. Didn't it come to your house regularly? A. The Danbury News?

Q. Yes? A. What do you mean the Evening News or the Weekly.

5671 Q. I mean the Daily News? A. The Daily?

Q. Yes? A. No, sir.

Q. Didn't the daily come to your house? A. No, sir.

Q. Did the weekly come to your house? A. Yes, sir.

Q. Didn't you buy the daily frequently? A. No, sir, I didn't.

Q. Didn't it come to your house frequently? A. Well when I have been away it might have come.

Q. What do you mean, that you don't know now whether it did or not? A. Well, I used to take the weekly paper; the daily paper we didn't take for several years.

5672 Q. Well, in 1902 and '03 didn't it come frequently to your house? A. Well, I wouldn't say.

Q. You can't recall? A. No.

Q. Well, isn't that true in regard to most of these matters—that you don't recall the conditions back in 1902 and '03? What I mean is this, Mr. Denton, isn't it a matter of fact that you can't recall now whether way back in 1898 to 1902 or '3 you ever heard what your union and its various agents were doing? A. No, I didn't know what they were doing.

Q. Well, isn't it a fact that you simply don't recall? 5673
A. I don't recall, no.

Q. You couldn't testify could you, positively, that these matters never came to your attention fourteen years ago? A. Well, I don't remember.

Q. That is the best you can do, isn't it? Now put your mind on these questions for a moment—make an effort to remember. Don't you remember now of hearing some time long before this suit was started that there was trouble with the concern of Henry H. Roelofs & Co.? A. No, sir. I don't remember of ever hearing the man's name.

Q. You don't ever remember reading it in the daily 5674
paper? A. No, sir, I don't.

Q. Well, now, I will ask you if you remember in regard to the Berg concern? A. I don't remember nothing about the Berg concern; neither.

Q. Your memory entirely fails you in regard to those matters? A. Sir?

Q. Your memory entirely fails you in regard to those matters. A. No, sir; I don't remember of ever hearing of them before that.

Q. Did you receive a copy of that warning "Exhibit 86" (showing witness same)? A. No, sir; I never received one 5675
of those; not to my knowledge.

Q. You mean by that that you don't remember or what do you mean? A. Oh, I meant that I don't remember of ever seeing one of them before.

Q. Haven't any recollection of it? A. No, sir.

Q. Well, now, what would you say if I told you that at the last trial you testified that you had received one of those? A. Well, I don't think I ever received one. I know I never received one of those.

Q. Well, I know, but would you think your recollection at the last trial was better than now in regard to that point; 5676
that was shown at the last trial and you said you thought you received? A. I said I thought so? I might have said that.

Q. But now you haven't any recollection? A. Was I positive?

Q. No, you said, I think I did; now you don't recall anything about it. Now I read from the Directory for 1902, which was used in sending out these notices by mail, and ask if this entry is accurate as to your name and address in 1902,

5677 "George F. Denton, hatter, house 93 Osborn Street"? A. Yes, sir.

Q. Was that correct? A. That is correct.

Q. Now I ask you if you had read in the Danbury News an article saying that the men had been called out of the Loewe factory? A. I never saw it there.

Q. You never read any of these articles? A. No, sir.

Q. But you knew the men had been called out for the purpose of unionizing the factory, didn't you? A. Oh, I knew that afterwards, yes, sir.

5678 Q. And you received that information from other members of the organization? A. Oh, I couldn't say whether they were members of the organization or not.

Q. But other members of the trade? A. Some people that I met on the street; I heard through them.

Q. General talk throughout town was it? A. I suppose so; yes.

Q. What? A. I suppose it was.

Q. Now, after you were sued in this case, I suppose you continued a member, paying dues? A. Well I didn't pay no dues.

5679 Mr. Merritt:

Oh, to 1906, that is a matter of record.

Mr. Beach:

That is a matter that we will look up. It is a matter of record, yes.

Q. What steps did you take to employ counsel—did you receive one of those notices or letters to sign? A. No, sir, I don't think I did.

Q. Well, how is your recollection on that point. Are you willing to swear positively that you didn't receive it, or that you don't recall? A. I don't recall it, no.

5680 Q. And did you take any steps to employ counsel? A. No, sir.

Q. Did you have property attached? A. I did.

Q. Can you attempt to explain why you didn't take any steps to defend yourself when you had property at stake? A. Oh, I thought I would let it take its own course. I didn't have anything to do with it and I thought Mr. Loewe—if he wanted my property, why he could take it. That was all; I wasn't going—

Q. (Interrupting) You weren't going to take any trouble to defend yourself? A. No, I wasn't. 5681

Q. Your expenses were paid to come up here and defend at the last trial? A. Yes, sir.

Q. Well, now, I want to ask you whether in the face of this testimony in this case, concerning boycotting from 1898 down to the time of this suit—in face of the articles in the Danbury News, etc., and so on, you are willing to testify that it never came to your attention by hearsay or otherwise that the United Hatters of North America were engaged in boycott? A. No, sir.

Q. Are you willing to testify positively on that point, or that you don't remember? A. That I never read it in the Danbury News. 5682

Q. No? But my question was more than that; are you willing to testify that you never heard of such things from anyone or that you don't remember? A. I don't remember it, sir.

Q. You are willing to testify that you don't remember, but you are not willing to swear positively that you never did hear of any of those things? A. No, I couldn't swear positively.

Recess.

Witness. 5683

JOHN H. CRAFT,

Sworn by Mr. Carroll:

EXAMINED

By Mr. Mulholland:

Q. What is your full name? A. John H. Craft.

Q. Where do you reside, Mr. Craft? A. 12 Well Avenue, Danbury, Conn. 5684

Q. How long have you resided in the City of Danbury? A. Twenty-six or seven years.

Q. What is your age? A. Fifty-eight.

Q. You are a defendant in this action? A. Yes, sir.

Q. When did you first become affiliated with any organization of hatters? A. Oh, twenty-six or seven years ago.

Q. And with what organization; that is as to whether Finishers or Makers' Organizaiton? A. Finishers.

5685 Q. Have you worked continuously at the trade during the last twenty-eight years? A. Most of the time, yes, sir.

Q. And are you a man of family? A. Wife and one child.

Q. Mr. Craft, do you remember of any trouble in the factory of D. E. Loewe & Co. in July, 1902? A. No, sir; not until after it happened.

Q. How long was it, I mean one day or a week when you first heard that there was trouble there? A. Very short time.

5686 Q. And how did you hear of it? A. Through talk mostly.

Q. In the shop and on the street? A. Mostly, yes, sir.

Q. Well, prior to your hearing of the trouble in the Loewe plant, had you ever heard that the officers and agents of the hatters' organization were conducting boycotts in states other than Connecticut? A. No, sir.

Q. After you heard of the Loewe strike, and up until October 1903, did you hear anything about the officers and agents of your organization boycotting the goods of Mr. Loewe? A. No, sir.

5687 Q. Did you ever hear of the trouble at the Berg plant? A. No, sir.

Q. Do you know where the Berg plant is located? A. No, sir, I don't.

Q. Did you ever hear of any trouble in a plant called the Roelofs plant? A. Never heard of trouble there.

Q. Did you know where that plant is located? A. No, sir.

5688 Q. Do you now? A. No, sir.

Q. Prior to the commencement of this action, that is say put it as late as October, 1903, did you ever hear about any trouble in the way of boycotting in connection with the Berg and Roelofs Co.? A. No, sir.

Q. That is prior to the time that the papers were served on you in this case? A. I don't think I did, no, sir.

Q. Well, Mr. Craft, were you ever knowingly a party to a conspiracy to destroy the interstate commerce of anyone? A. No, sir.

Q. Prior to the commencement of this suit, that is the date of service of the writ upon you, were you ever knowingly a party to any conspiracy to boycott Mr. Loewe or any other individuals? A. No, sir. 5689

Q. Did you ever work for Mr. Loewe? A. No, sir.

Q. Prior to the commencement of this suit did you know Mr. Loewe? A. I knew the gentleman when I saw him, that is all.

Q. Did you have a speaking acquaintance with him? A. No, sir.

Mr. Mulholland:

You may take the witness. 5690

CROSS EXAMINATION

By Mr. Merritt:

Q. How long have you lived in Danbury, Mr. Craft? A. Twenty-seven or eight years.

Q. Seven or eight years? A. Twenty-seven.

Q. Oh; how long have you lived at 12 Well Avenue? A. Oh, twenty-one or two, somewheres along there.

Q. Then your name entered here in the Danbury directory for 1902 as John H. Craft, hatter, 12 Well Avenue, is correct? A. Yes, sir. 5691

Q. Did you receive a copy of that warning "Plaintiff's Exhibit 86?" A. Yes, sir.

Q. Through the mails? A. Yes, sir.

Q. Did you attend any meetings of your local union? A. Once in a while I did.

Q. Was that true in 1900, 1901 and 1902? A. Once in a while.

Q. And what local were you connected with? A. Why.

Q. Finishers or Makers? A. Finishers; Finishers. 5692

Q. Well, now, I want you to do your best to remember these matters, and see if I can't refresh your recollection; now February 7th, 1900—I don't suppose you could state offhand whether you attended any meetings at such a date? A. No, sir; I couldn't.

Q. Well, now, let's see if you remember hearing any such a talk as this at any meeting in 1900 "Mr. Daniel Brady of Orange, N. J. addressed the meeting on the strike in Berg & Co. He said in part that he was here

5693 in the first place to thank the hat finishers association of Danbury for their grand assistance during the trouble with Berg & Co. Another reason he was here was to give the hatters of Danbury some information regarding the strike and to tell you what was being done with your money. He said that when they entered the strike it was the intention to force Berg & Co. fair, and from the evidence he had received when he left Orange, he was convinced that they were right, and Berg & Co. will be forced to make their factory fair, or go out of business.

5694 There are six men on the road working on the Berg & Co. hats." Then he goes on and tells about the condition of the factory, and that "the hats were coming back like an army of ants." Now do you recall anything of that kind? A. No, sir.

Q. Well, you wouldn't be willing to testify that you never did hear anything of that kind, would you? A. I might have heard it after, but I never heard it in a meeting.

Q. Suppose your name appeared as entered on the rolls of that meeting as being present at that time, would you still be willing to testify that you didn't hear that? A.

5695 Well, I don't see why I could, I don't remember it at all.

Q. Now, you don't remember it at all; don't you remember a special assessment being laid on each one of the members to carry on the Berg Strike? A. No, I don't remember it.

Q. Don't you remember that there was an increase in assessment in 1900? A. No, I can't recall it at all.

Q. You can't recollect it? A. No, sir.

Q. Then your recollection as to things in 1900, is rather vague, isn't it? A. Yes, sir, sir; it is.

5696 Q. Did you ever see any of these circulars sent out by the United Hatters (showing witness number of circulars that have not yet been introduced in evidence)? A. I don't think I ever saw any of those.

Q. Haven't any recollection of having seen them? A. No, sir.

Q. Well, are you sure about that, Mr. Craft, or simply is that the best of your recollection? A. Well, I am sure I never saw them.

Q. Sure you never did? A. I don't think I ever did.

Q. Don't you know circulars of that kind had been issued? A. Not to my knowledge, no. 5697

Q. Well, hadn't you heard something to that effect? A. I might have heard something to that effect then, but I don't recollect anything about it now at all.

Q. Did you read the journal of the United Hatters? A. No, sir.

Q. Never looked into it? A. I probably looked into it, but not enough to say I ever read it; I only read a few lines in it.

Q. Were they to be found in the factory where you worked? A. Circulated around the factory, yes, sir. 5698

Q. Did you ever read any of the reports of any of the officers of the union? A. No, sir.

Q. Never any of the financial reports? A. Not in the Journal, no, sir.

Q. Would that mean anywhere else? A. I may have read it in a paper, something of that kind published; I am not sure, but I never did in the Journal.

Q. Did you ever read any of the Convention proceedings? A. No, sir.

Q. Were they in the factory where you worked? A. I think there has been such things circulated there, yes. 5699

Q. Were you a regular reader of the Danbury News in 1902 and '03? A. It comes to the house every day, but I didn't always read it.

Q. Well, you usually read it? A. Not always.

Q. Or did in 1902 and '03? A. I might have at that time.

Q. Well, don't you recall whether you usually read it in 1902 and '03? A. Why I read it some; not every day.

Q. Well, some times was it read to you? A. Some times. 5700

Q. Well, now you remember reading in the Danbury News that your men had ordered the men out of Loewe's factory for the purpose of unionizing it? A. Yes, sir.

Q. What is that? A. I think I did.

Q. Yes, and you remember reading on another date that they had ordered the non-union men out also? A. No.

5701 Q. You don't remember reading that? A. No.

Q. Well, I won't take the time to read it. Now you stated you didn't even know where Roelofs' factory was situated, did you? A. No, sir, I don't.

Q. You know it's not in Danbury? A. No, I know it isn't in Danbury.

Q. Or in Bethel? A. Or in Bethel.

Q. Haven't you any idea where it is situated? A. Why, it's down toward New York somewhere, I take it.

Q. You never heard it was in Philadelphia? A. Well, I couldn't say whether it was in there; I couldn't 5702 say that I ever heard it was in Philadelphia.

Q. Now, didn't you read in the Danbury News that your organization, the United Hatters, had been sued by Roelofs? A. No, sir; I didn't.

Q. Sure of that, are you? A. Quite sure of it.

Q. Well, now let me show here "Several Danbury men are defendants in a suit for two hundred and fifty thousand dollars." Now this appears in the Danbury News April 9th, 1902, page 4: "United Hatters sued. H. H. Roelofs of Philadelphia wants $250,000 damages. Several Danbury men are defendants in a suit for $250,000 5703 damages brought by Henry H. Roelofs, etc." Don't you remember hearing anything about that? A. I might have heard about it.

Q. Don't you remember reading anything about it? A. No, sir; I don't remember reading about it at all.

Q. Now do you remember hearing something about it? A. Yes.

Q. It sounds familiar, does it? A. Yes, it does.

Q. Now didn't you know that that suit was brought because of the attempt of your organization to unionize that concern? A. No, I didn't know it.

5704 Q. You knew it was a suit against your organization because you had heard about it? A. Yes.

Q. You didn't know what the complaint was against your organization? A. No, sir, I didn't.

Q. Well, you inferred that it was on account of the action of your organization in connection with strikes and boycotts, didn't you? A. I supposed it was.

Q. And you had every reason to believe prior to the commencement of this suit that your organization

was at least being accused of boycotting? A. Why they must have been or they wouldn't have been sued. 5705

Q. Yes; well now after you were sued did you take any steps to employ counsel, or what did you do in that connection? A. Why, I just signed this paper that was sent to me by the hatters that they would attend to it.

Q. Did you hear the one I read? A. Yes, sir.

Q. You think that was the paper? A. Yes, sir; as near as I could tell.

Q. And you signed this paper and mailed it back to Mr. Connolley? A. Yes, sir.

Q. Did you have any savings bank account attached? 5706 A. No, sir.

Q. Now you continued a member of the organization? A. Yes, sir.

Q. Paying dues? A. Yes, sir.

Q. And you didn't make any protest or attempt to bring about any change in the officers who represented you, did you? A. No, sir.

Mr. Merritt:

That is all.

By Mr. Davenport:

Q. Well, I want to know whether you testify that you never saw or read any of these, or that you don't remember? A. I never read anything about it; just what I have stated. 5707

By Mr. Merritt:

Q. There seems to be some misunderstanding here; now, didn't you testify that you had heard of this Roelofs suit and you inferred from the fact that the suit was brought that it was brought on account of boycotting? A. I don't know what else it was brought for. I don't know whether it was brought for that or what it was brought for; I couldn't say.

Q. And didn't you so testify that you must have known then that your organization was accused of boycotting at that time? A. Well, I don't know of anything else they could be sued for; I don't know of anything else. 5708

Witness excused.

Witness.

5709

HERMAN H. BOHMAN,

Sworn by Mr. Carroll:

The Clerk:

Your full name, please? A. Herman H. Bohman.

EXAMINED

By Mr. Beach:

Q. Where do you live? A. 32 Davis Street.

5710 Q. In Danbury? A. Yes, sir.

Q. How old are you? A. Forty-one.

Q. What local union do you belong to or did you belong to? All the way through I am asking these questions simply prior to the time you were served with papers in this suit, so keep your testimony within that period? A. Why you mean Finisher or Sizer?

Q. Yes? A. Finisher.

Q. You were a member of the Finishers' Union? A. Yes, sir.

Q. And you are a defendant here? A. Yes.

5711 Q. Had you up to October, 1903, ever been an officer of the local union? A. No, sir.

Q. Or of the international union? A. No, sir.

Q. Or a delegate to any Convention of the American Federation of Labor? A. No, sir.

Q. Or of the United Hatters? A. No, sir.

Q. Where were you working in 1902 and '03? A. Hawley & Green's.

Q. Were you at that time a regular reader of the Journal of the United Hatters? A. No, sir.

5712 Q. Do you remember before that date having read in the Journal anything in reference to the Berg Co.? A. No, sir.

Q. Do you remember reading in the Journal prior to that date anything in regard to H. H. Roelofs & Co.? A. No, sir.

Q. When did you first know that there was any trouble in Mr. Loewe's factory? A. Why, I can't say positively sure whether the same day or the following day.

Q. You mean the day of the strike or the day after the strike? A. Yes.

Q. Before that did you know anything? A. No, sir. 5713
Q. Did you know of the trouble coming or anything of that kind? A. No, I don't think anybody did.
Q. After July 25th, or after you heard of the strike, and down to the time when this suit was brought, did you have any knowledge or information that the officers or agents of the Union were pursuing Mr. Loewe's goods in other states? A. No, sir.
Q. Did you before this suit was brought have any knowledge or information that the officers or agents of your union were engaged in any restraint of trade? A. What do you mean?
Q. I mean did you understand that they were en- 5714
gaged in a combination for the purpose of restraining the trade of any manufacturer? A. No, sir.
Mr. Beach:
That is all.

CROSS EXAMINATION

By Mr. Merritt:
Q. As I understand your testimony, Mr. Bohman, you are on record here as testifying that you never read or heard anything about H. H. Roelofs & Co.? A. Yes, that is what I said.
Q. How long have you lived in Danbury? A. I 5715
lived in Danbury, let's see; I will have to look back. Ever since I was thirteen years old. That is about twenty-eight years.
Q. Householder there? A. What is that?
Q. Householder there? A. Yes, sir; not all that time.
Q. I asked if you were a householder? A. Yes, I guess so. I don't know just when.
Q. Well, I find here in the directory of 1902, Danbury, your name as Herman H. Bohman, hatter, 32 Davis 5716
Street; is that correct as of that date? A. Yes.
Q. That is where you were living at that time? A. Yes.
Q. You know how to read? A. Why, fairly good; not as good as some people.
Q. Occasionally do read? A. Oh, yes.
Q. Occasionally read the papers? A. Oh, yes.
Q. Read the Danbury News? A. Oh, yes; not more so now than I used to.

5717 Q. Well, in 1902 and '03 you knew how to read, didn't you? A. Yes.

Q. Didn't you read the Danbury News then? A. No, sir.

Q. Never looked at it then? A. No, sir; I know why too if it was necessary to explain. I was interested in other things, and my evenings was taken up. I knew just what I was doing.

Q. What about 1900, did you read the Danbury News then? A. For a long time there, I didn't, because I was interested—my evenings was taken up with
5718 other business.

Q. Can you answer in regard to 1900, whether or not you were reading the Danbury News then? A. No, sir.

Q. You were not? A. No.

Q. That is your answer? A. Yes.

Q. In 1901? A. I stated that for a long period of time there—I do now because I have more time—but for a long time I didn't.

Q. Perhaps I am not making myself clear to you; try to follow my question. I am asking you whether you
5719 read the Danbury News—you said in 1900 you didn't. Now in 1901, did you? A. I might ask when was the strike?

Q. In Loewe's? A. Yes, sir.

Q. What is your recollection as to when it was? A. I don't remember just what year it was.

Q. Well, have you any idea? A. I don't know.

Q. Five years ago? A. I know it was more than that; I don't remember just what year it was.

Q. I want to see just what your recollection is good for; that is what I was getting at. The strike was in
5720 1902 in July; now I want to know in 1901, were you reading the Danbury News then? A. No, sir.

Q. And you were not reading it in 1902 or '03? A. No, sir.

Q. Haven't read anything in it during those years? A. No, sir.

Q. Now in regard to the Journal of the United Hatters, you never read that? A. No, sir.

Q. At any time? A. No, sir; I never opened it up more than once or twice and I don't know that I ever

read any of it. I know that one time we was looking for certain names, I took some of the boys and that is the only time I ever remember of opening it up. 5721

Q. What about the Convention Proceedings, did you ever read those? A. No, sir.

Q. Or the Constitution and By-laws, did you ever read those? A. No, sir.

Q. Did you ever read the constitution of the American Federation of Labor of which you are a member? A. No, sir.

Q. Did you ever attend any local meetings? A. I have; repeatedly have attended the meetings after I was appointed; but at those years I did not. 5722

Q. Didn't attend any meetings during any of those times? A. No, sir.

Q. Well then, I take it, that you testify that you never read anything about any of these matters? A. That is what I said.

Q. Now you knew something about what your organization was doing in 1902, didn't you? A. No, sir.

Q. Nothing about your organization? A. Well, in regards to what?

Q. In regard to anything? A. I knew they was in existence. 5723

Q. You knew it was a trade union? A. Certainly.

Q. Knew it had a label? A. Yes, sir.

Q. Knew it had agents on the road? A. Yes, sir.

Q. You knew it conducted strikes? A. No, I don't know that I knew that they was conducting any strike.

Q. That is up to the time of the commencement of this suit you never did—

By the Court (Interrupting):

Q. Did you know that there were labor strikes? A. That there were strikes? 5724

Q. Yes? A. Oh, I knew there were strikes, but I didn't know that they were involved in the strikes.

Q. Well, who conducted them? A. I don't know what caused the strikes.

Q. Do you know who conducted the strikes? A. No, sir; I don't.

Q. You don't know whether they were conducted by Labor Organizations or not? A. No, sir.

5725 Q. And you can carry your mind back ten years ago and tell the jury here that you were ignorant of those things, or that you have forgotten about them, which? A. I know that I don't know.

Q. And never did know until this suit was brought? A. That is it; that is what I say.

By Mr. Merritt:

Q. What was your idea as to what a trades union was for? A. To better my condition; higher wages.

5726 Q. Yes, and in what way? A. Because I know that the men they are getting more for finishing hats, or I was getting more than I could if I went to work in a foul shop.

Q. Now how did you think that that was brought about? A. What do you mean; the prices?

Q. You said when you joined the union that your union was able to get you better prices; what was your idea as to the way the union accomplished that?

The Court:

He wants to know how you understood that the union could accomplish higher prices—force up the prices?

5727 A. Why, because union hats sell for a higher price. That is how they could afford to pay more.

Q. Well, how was it, in your mind, that the union hats would sell for higher prices, did you ever give the matter any thought? A. Never give it a thought.

Q. You haven't any ideas on the subject? Didn't you understand, Mr. Bohman, that the object of the union was through concerted action to raise the prices on labor? A. You will have to state that over again before I catch it though.

5728 Q. Didn't you understand that the object of the union was, through the concerted action of a large number of men, acting through organization to force up prices? A. Force up the prices of wages?

Q. Yes? A. Why, I guess that is the idea; an organization is for that purpose, to obtain higher prices and wages.

Q. Didn't you know that in 1902? A. Well, I knew —I have always known since I have been a member that through the union I got better wages than I did in an independent or foul shop.

Q. Well, didn't you know that that was done by men combining together? A. I don't quite understand. 5728

Q. Didn't you understand that the union operated by combining together and refusing in a body to work for a man or refusing in a body to deal with any man? A. You mean certain prices or what?

Q. Didn't you understand that the trades union try to force up prices by having its members act together and not work for a given factory, or act together and not buy of a given factory? A. I can't answer that question unless you state it over so it is clear to me.

Mr. Merritt: 5730

Will the stenographer read it to him?

(Question read by stenographer.)

A. Well, I believe I have stated why our union demands better prices for labor, and they get better prices.

Q. Now, will you try and answer that question, whether you understand it or not? A. Well, start with the question that you want me to answer.

Q. The question that I want you to answer is the one that was put to you? A. I can't answer.

By the Court:

Q. What he means to get at is, supposing the employer declines to put up prices as required by the union, is it to be forced up in some manner, as you understand it? A. Well, it is agreed upon by both sides; it isn't forced but it is agreed upon by both sides where prices are agreeable. 5731

Q. Well, how do you understand it could be done if the employer didn't agree to it? A. Well, what the result would be you mean?

Q. Well, how would it be done if the employer didn't agree to it? A. To the price in the union shop?

Q. Yes? A. Or in the foul shop? 5732

Q. Well, whatever shop it is?

Mr. Mulholland:

Take the union shop first? A. Well, take the union shop, if they don't agree on the price, why now they have an arbitration, don't they?

Mr. Mulholland:

I don't know.

Witness:

And in a foul shop most generally if they want more

5733 wages and they don't grant them the wages that they demand, why they walk out; that is always done in the place, isn't that right?

By Mr. Merritt:

Q. Haven't you ever known of strikes taking place in union factories? A. They used to.

Q. Well, I am speaking now of 1902 and '03? A. Well, I don't know whether there was any strike to my knowledge; that is in between the—where the price was settled or unless it was over some little point that arose in the meantime.

5734 Q. Well, haven't you known that there have been difficulties and strikes in Danbury in Union shops—how long did you say you lived in Danbury? A. Twenty-eight years.

Q. Didn't you know the time that all the factories were tied up in 1894? A. Certainly, I know those lock-outs or strikes; yes, sir, certainly.

Q. And you knew that your organization was active in connection with them at that time? A. Excuse me just a minute, but I thought you meant small strikes.

5735 Q. No, I am interested in big ones; you mean in regard to your testimony, you have been testifying about small strikes? A. No, but I mean that particular point. I thought you was speaking of small strikes; this one individual shop I was talking about.

Q. Now you continued a member of this organization after you were sued? A. Yes, sir.

Q. Didn't take any steps to prevent the re-election of the same officers? A. Why, I tried.

Q. Well in any way? A. Yes, I was dissatisfied.

Q. What did you do? A. Why, I never done anything, but I was dissatisfied the way things had gone.

5736 Q. I ask if you took any steps to prevent the re-election of the same officers? A. Not until the last election I did.

Q. What election was that, 1911? A. A couple of years ago.

Q. Well, there was a re-election in 1907, wasn't there? A. Yes, I voted against him.

Q. You voted against whom? A. The officers, I think.

Q. Now let's see; then you have taken part in the election of officers, have you? A. I have attended one or two meetings where there was an election, yes. 5737

Q. In 1903 did you do that? A. No, sir.

Q. When did you attend this meeting? A. I attended two or three in the last two or three years.

Q. Well now, as I understand it, you took part in the re-election of officers in 1907? A. I won't positive state that I did it in that year, but I have been in a couple of meetings in the last few years where there was an election of officers; I will state that for a positive fact.

Q. Well, I ask if you have been to the re-election of the national officers in 1907? A. I don't remember. 5738

Q. You took no steps whatsoever to prevent the re-election of the same officers? A. I don't remember.

Q. Did you testify at the last trial? A. Yes, sir.

Q. Were your expenses paid for coming and testifying? A. Yes, sir.

Q. Did you receive any letter from the union in regard to the employment of counsel? A. Yes, sir.

Q. And did you sign it and mail it back to Mr. Connolley? A. Yes, sir.

Q. Did you receive one of these warnings? A. Yes, sir. 5739

Q. Sure of that? A. Yes, sir; I am positive sure.

Q. Let me see if your name is in this directory—oh, I think that you said it was, didn't you? A. Yes, sir.

Q. You never heard anything about any of these warnings in 1902? A. I don't remember that one, but I didn't get one, because I know that I only got one paper.

Mr. Merritt:

That is all.

Witness excused.

Witness, 5740

TIMOTHY H. FARRELL,

Sworn by the Clerk, Mr. Carroll:

EXAMINED

By Mr. Mulholland:

Q. What is your full name? A. Timothy H. Farrell.

741 Q. Where do you reside, Mr. Farrell? A. No. 76 South Street, Danbury.

Q. In Danbury? A. Yes, sir.

Q. How long have you lived in the City of Danbury? A. Thirty-six years; since 1876.

Q. You are a defendant in this case? A. I am.

Q. What is your age? A. Forty-eight next October.

Q. You are a member of the Common Council of Danbury, I believe? A. I am, sir.

Q. How long have you held that position? A. For fourteen years next April.

742 Q. Member of the Fourth Ward for fourteen years? A. Yes, sir.

Q. Were you acquainted with Mr. Loewe back in 1902 and 1903? A. Not personally; only just if I see I know him.

Q. Did you ever work for Mr. Loewe? A. Never went by his shop in my life.

Q. Never been in his plant? A. Never in my life.

Q. Oh, you said you had never been by his shop. Can you tell the jury where you were working in 1902 and the forepart of 1903? A. John W. Green & Sons.

743 Q. How long did you work there? A. I worked for them twenty-six years, except one year I was in business myself.

Q. You, I believe, were foreman? A. Yes, sir.

Q. Were at that time? A. I was at that time; I am not now.

Q. How long were you the foreman of this plant? A. For twenty-five years.

Q. And in what department of the plant? A. In the forming and blowing department.

744 Q. Now you are a member, I believe, of some union of hatters? A. Hat Makers' Union.

Q. Of Danbury? A. Of Danbury.

Q. Tell the jury how long you have been a member of that union? A. Since 1885.

Q. Have you ever been an officer of the union? A. Never.

Q. Or have you ever been a delegate to any of its conventions? A. Never was a delegate to anything.

Q. And have you ever attended any Convention of

the American Federation of Labor? A. Never was; never knew that I belonged to it 'till last fall. 5745

Q. You never knew that your organization became affiliated with the American Federation of Labor until it was brought up at the last trial? A. I heard here at the table at the last trial that I belonged to the Federation of Labor.

Q. At the time you joined the Makers' Association that was a separate and distinct organization from the finishers, was it not? A. It was two separate organizations.

Q. Do you know when they joined forces under the name of the United Hatters of North America? A. I don't. I don't know. 5746

Q. Did you have anything to do with that? A. I didn't.

Q. Do you remember hearing of any trouble in the plant of Mr. D. E. Loewe in the summer of 1902? A. I remember when I came home somebody says the men up to Loewe's was out. I asked what for. They said they came out to get cards. I waited 'till I got home—

Q. (Interrupting) Did you know prior to that day that the men contemplated going out of Mr. Loewe's plant? A. No. Because it was a common occurrence in those foul shops for men to go out. They were liable to go out any time. 5747

Q. I know, but in this particular case there was no activity of the men to get them out? A. No, I didn't know until they were out.

Q. Prior to your hearing of this trouble at Loewe's plant had you any knowledge that the agents and officers of the United Hatters of North America were conducting boycotts in states other than Connecticut? A. Not on your life; I never heard they were boycotting them in the least. I understood they were on the road to advertise the label the same as any other. 5748

Q. Did you ever read, or did anybody tell you that they were doing that? A. I never heard they were boycotting; never read anything that they were boycotting until it was brought out at the last trial they called it a boycott.

Q. After this strike at Loewe's plant and up to the time you were sued, did you hear anything that Loewe's

5749 goods were being boycotted? A. I never heard they were boycotting Mr. Loewe's goods. They were advertising the label extensively where Mr. Loewe's goods were sold; in states where Mr. Loewe's goods were sold.

Q. Did it ever come to your attention directly or indirectly that these men on the road were threatening his customers and asking them not to deal with Mr. Loewe? A. I never heard tell of it; I don't think the men would. The agents had no right to.

Q. I am after your own knowledge on that matter now? A. I never heard they was doing any such thing 5750 as that. I was personally acquainted with some of the agents.

Q. The first you knew of it was when you were served with papers? A. The first I knew of it was when I was served with papers that they were bringing action against me.

Q. Did you ever read the publication known as the American Federationist? A. I read the cover of it; quite a large sized book. I read it from the outside.

Q. How long ago? A. I couldn't tell. I couldn't 5751 give the date it was. I think it was after the Loewe trouble.

Q. Did you ever read anything in the magazine? A. Never did only just the cover. I knew it was the American Federationist. That was the first I ever knew they ever had one as large as that. I knew they must have some paper.

Q. Prior to this suit, I wish you would tell the jury whether you were a reader of the Journal of the United Hatters of North America? A. Not as a reader. I only read it about four times. Once there was a matter that 5752 I knew would come out in the Journal because it was in regard to a case of a broken trust. And I knew it was in the Journal and I got it and read it.

Q. Did you ever read anything about any difficulties at the Berg plant? A. No. I never read anything in the Journal about Berg. I knew they had trouble there. They go out—in the Orange District there is always trouble.

Q. Did you ever read anything about the Roelofs? A. I knew they had trouble in the Roelofs District. Roelofs wanted his shop turned fair and there were two men

come out from an independent shop and they asked the organization to take it fair. 5753

Q. You just heard it had turned fair? A. I heard it had turned fair.

Q. During the period prior to the commencement of this suit, were you ever knowingly ever a party to any conspiracy to interfere with Mr. Loewe's interstate commerce? A. Certainly not—a man would put himself liable to the law to be a conspiracy against a man, whether he is running a foul shop or fair.

Q. Prior to the commencement of this suit were you ever knowingly a party to a conspiracy to boycott Mr. Loewe's goods? A. No, sir; not on your life. 5754

Mr. Mulholland:

Take the witness.

CROSS EXAMINATION

By Mr. Merritt:

Q. Did you understand that the methods employed in connection with the Roelofs matter were the same as had been employed in connection with the Loewe matter? A. I never knew anything about the Roelofs matter. I heard that Mr. Roelofs wanted to give the union $10,000 if they would make his shop fair, and another said he paid five; I never knew how it was brought about, some times the men in the foul factory would want to get the shop fair and the union wouldn't want to take it in, and I never knew how he brought it about. The first I knew he had trouble was when it came out in the paper that Roelofs was bringing action against the United Hatters for some injury it had done, and that is as far as my knowledge went in regard to Roelofs. 5755

Q. Did you read it in the paper? A. I read in the paper about a certain action being brought against the United Hatters for two hundred and some odd thousand. It recalled it to my memory since you read it here. 5756

Q. It has been called to your memory since I read it here? A. Sure.

Q. You read it in the Danbury News? A. Just a part of it. I will admit I am not a large reader but I cast my eye over these headlines.

5757 Q. You testify that you read this article that you heard me read here? A. Yes, it recalled to my memory that I have read it.

Q. And it recalled that it said they had been engaged in boycotting, didn't it? A. I never read that part of it.

Q. You said you read it? A. If I said I read it I meant this way. I meant that is the way I got my opinion mostly as to the rest of the trouble.

Q. Let's see if we can find this article you read. Witness:

5758 You asked the question also if I read the article. I said that I had just looked over the headline. I testify, because on a great many occasions I read the headlines and that is usually the way I read it so there is no trouble in looking it over, and I don't have time to do it.

Q. Well now, see if you recognize—do you think you would recognize the article if you saw it? A. Why, I might recognize it if I saw it in the paper.

Q. All right, look at the paper? A. I might recognize then how much part of it I read.

Q. Yes, come right over here and look at it and see
5759 if that is the one you remember reading.

(Witness leaves the stand and examines the paper.)

A. That is the one.

Mr. Davenport:

How far down did you read?

Q. Yes, how far down did you read? A. I will have to get my glasses to see now.

Q. Suppose I read it to you and you can tell me when I get down to it. You can take your seat on the witness stand. "United Hatters sued. H. H. Roelofs of
5760 Philadelphia wants $250,000 damages. Several Danbury men are defendants in a suit for $250,000 damages brought by Henry H. Roelofs, the Philadelphia Hat Manufacturer against the officers and Board of Directors of the United Hatters of North America. James H. Maher of this city is Treasurer of the Association. Patrick Lawlor of Bethel is Vice-President, and Charles H. Barrett and Martin Gorman of this city are members of the Board of Directors. The Board of Directors number fifteen and they are the defendants in the suit which has been brought in the United States Circuit Court. In the com-